UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/HRV/99/1
7 March 2000

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Addendum

CROATIA*

[19 November 1999]

* This report is issued without editing, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

GE.00-40975 (E)

INITIAL REPORT OF THE REPUBLIC OF CROATIA ON THE IMPLEMENTATION OF INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

I. GENERAL INFORMATION

1. In accordance with Article 40, Paragraph 1 of the International Covenant on Civil and Political Rights of December 16, 1966, the Republic of Croatia is submitting its Initial Report on the implementation of the said Covenant.

2. The Initial Report contains the overview of the measures that have been adopted, which give effect to the rights recognized by the Covenant. For a more detailed report on the political structure and basic legal system of the Republic of Croatia we are referring to the Basic Document of the Republic of Croatia (HRI/CORE/I/Add.32).

II. IMPLEMENTATION OF THE COVENANT BY ARTICLES

ARTICLE 1

3. Upon the holding of the first multi-party elections in the Republic of Croatia of April 22, 1990, the Republic of Croatia started the process of transformation of its political system towards the realization of a system of parliamentary democracy and market economy. At the same time, together with some other republics within the former Socialist Federal Republic of Yugoslavia, the Republic of Croatia requested from the federal bodies the establishment of more equal relations within the federation at the time.

4. After the unsuccessful termination of negotiations between the presidents of the former Yugoslav republics on future organization of the federation or a confederation at the meeting in Ohrid held on April 19, 1991, it was decided that a referendum on remaining within the federation was to be held in each of the republics. The referendum in the Republic of Croatia was held in May 1991, and 94% of voters opted for independence and sovereignty of the Republic of Croatia. Accordingly, the Croatian National Parliament, exercising the right to self determination contained in the 1974 Constitution of the Socialist Federal Republic of Yugoslavia, enacted the Constitutional Decision on the Sovereignty and Independence of the Republic of Croatia ("Narodne novine", hereinafter: "NN") */Official Gazette/* 31/91) on June 25, 1991 by which the Republic of Croatia severed all legal ties with the Socialist Federal Republic of Yugoslavia.

5. Due to the aggression against the Republic of Croatia and spreading of the armed conflict on the territory of former Yugoslavia, the European Community organized negotiations aimed at the preservation of peace in this part of Europe. At the meeting held on August 27, 1991 in

Brussels, a moratorium regarding the Decision on Independence was agreed for the period of three months, as well as the organization of International Conference on Former Yugoslavia sponsored by the United Nations and European Community.

6. The mentioned negotiations were unsuccessful, and accordingly, upon the lapse of three months, the Constitutional Decision on Independence and Sovereignty of the Republic of Croatia took effect on October 8, 1991, and from that date the Republic of Croatia exists as an independent state.

7. The Constitution of the Republic of Croatia guarantees the realization of the right to self-determination in the economic sphere and prescribes that Croatian National Parliament and the people decide directly and independently

- on the regulation of economic, legal and political relations in the Republic of Croatia, and
- on the preservation of natural and cultural wealth and its utilization (Article 2, Paragraph 4 of the Constitution of the Republic of Croatia).

8. This constitutionally guaranteed right is regulated in more detail in the Law on Concessions (NN 89/92) and in the Law on Mining Industry (NN 35/95). The Law on Concessions regulates the institute of concession for the research and exploitation of mineral raw materials. It sets, at the same time, a time limit for granting of such concession and limits it by the principle of mutual benefit, and by the provision of appropriate assurances for the realization of economic purpose of concession in accordance with the interests of the Republic of Croatia (Article 1, Paragraph 1 of the Law). The House of Representatives of the Croatian National Parliament establishes the said public interest for granting of concession for economic exploitation of natural wealth. The mentioned legislation of the Republic of Croatia ensures the exercise of the right of people to free disposal of natural wealth, as well as prohibition of the deprivation of people of their own means for life, in accordance with the UN General Assembly Resolution of 1962 "Lasting Sovereignty Over Natural Resources".

9. In the period from 1991 to 1995, free use of natural resources of the Republic of Croatia was made impossible on temporarily occupied territories, because of the aggression against the Republic of Croatia and the occupation of almost one fourth of its territory. Out of the total of 2,075 MW installed in hydropower plants, the Croatian electric-power industry was unable to use 561.5 MW, which were occupied and seriously damaged. Equally, in the period from 1992 to 1996, the Republic of Croatia was unable to use approximately 600,000 tons of raw oil from the oil-fields Đeletovci, Privlaka and Ilača on the territory of Croatian Danubian Region.

10. Croatian legislation provides for the realization of the internal dimension of the right to self-determination by setting an obligation to hold elections (Article 1, Paragraph 2 of the Constitution of the Republic of Croatia) as well as through the exercise of active and passive electoral right of an individual (Article 45 of the Constitution). The Constitution guarantees to the members of minorities freedom to express their nationality, freedom to use their language and script and cultural autonomy (Article 15 of the Constitution), while the Constitutional Law on Human Right and Rights of Ethnic and National Communities or Minorities guarantees a larger number of specific minority rights including the right to education in minority languages,

to public and private use of minority languages and scripts, access to the media, participation of members of minorities in public life, special representation of members of minorities in Croatian National Parliament, etc. (Articles 1-21 of the Constitutional Law).

ARTICLE 2

11. The prohibition of discrimination on any grounds is regulated in the Constitution of the Republic of Croatia, namely in Articles 14, 15 and 26, as well as in Article 2 of the Constitutional Law on Human Rights and on the Rights of Ethnic and National Communities or Minorities.

12. Article 14 of the Constitution of the Republic of Croatia reads as follows:

"Every person and citizen of the Republic of Croatia shall enjoy all rights and freedoms, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other properties."

13. Article 14, Paragraph 2 of the Constitution of the Republic of Croatia reads as follows:

"All shall be equal before the law".

14. Article 15 of the Constitution emphasizes equality of members of all national minorities, and reads as follows:

"Members of all national minorities shall have equal rights in the Republic of Croatia.
Members of all national minorities shall be guaranteed freedom to express their nationality, freedom to use their language and script, and cultural autonomy."

15. Article 6 of the Constitutional Law additionally prescribes full respect of the principle of non-discrimination regarding members of all national minorities.

16. A more detailed report on minorities in the Republic of Croatia follows Article 27 of the Covenant.

17. Article 26 of the Constitution: "All citizens and aliens shall be equal before courts and other state bodies and other bodies vested with public powers".

18. One of the basic Constitutional principles is expressed in Article 3 of the Constitution of the Republic of Croatia: freedom, equal rights, national equality, love of peace, social justice, respect for human rights, inviolability of ownership, conservation of nature and the human environment, the rule of law and a democratic multiparty system are the highest values of the constitutional order of the Republic of Croatia.

19. For several years the Government of Republic of Croatia has been implementing series of measures and actions in the promotion and protection of human rights.

20. On the occasion of the celebration of 50th Anniversary of the adoption of General Declaration on Human Rights, round tables dedicated to the theme of the General Declaration on Human Rights were held at the Law School of the University of Zagreb, in the Institute of Social Sciences, as well as in the Old Townhall in November and December 1998.

21. On this occasion a poster with the text of the Declaration on Human Rights was made and sent to all schools in Republic of Croatia and to all county offices.

22. A conference on the significance of local and non-governmental organizations in the promotion of human rights was held in the European Home in Zagreb between May 11 and 12, 1998. It was organized by the Ministry of Foreign Affairs and a non-governmental organization, the Center for Direct Protection of Human Rights.

23. The Government of Republic of Croatia established a Commission for the Issues of Equality that has issued a publication " The Beijing Platform and National Policy – action for the Promotion of Equality". The Beijing Platform on Equality of Sexes and national policy of the Republic of Croatia was published in it.

24. The Criminal Code of the Republic of Croatia (hereinafter: "CC") in Chapter XI " Indictable Offenses against Liberty and the Rights of a Person and a Citizen" (NN 110/97) envisages the following:

Incriminated acts that have characteristics of a criminal offense against political freedoms and human rights can be divided into three groups:

1. Criminal offenses against freedom:

- Unlawful deprivation of freedom
- Kidnapping
- Extortion of statements by coercion
- Endangering safety
- Establishment of slavery and transportation of slaves

2. Criminal offenses against fundamental rights of a man and a citizen:

- Violation of equality of citizens
- Maltreatment in the execution of service or public authority
- Violation of inviolability of home
- Unlawful search
- Violating the privacy of correspondence and other sort of mail
- Disclosure of professional secret without authorization
- Prevention or disruption of public assembly
- Unauthorized recording and wiretapping

- Violation of right to submit legal remedies and petitions
- Prevention of printing and of distribution of printed materials and broadcasts

3. Electoral Criminal Offenses:

- Denial of the electoral right
- Violation of the freedom of voters to decide for whom to vote
- Abuse of the electoral right
- Violation of the secrecy of the ballot
- Destruction of ballot documentation
- Electoral fraud

25. Article 106 of the CC reads as follows:

"(1) Whoever, on the basis of a difference of race, color, sex, language, religion, political or other conviction, national or social origin, property, birth, education, social or other status, affiliation to an ethnic or national community or minority in the Republic of Croatia, denies and limits the rights and freedoms of man and citizen laid down in the Constitution, law or other regulations, or whoever, on the basis of such a difference or affiliation, grants citizens any privileges or advantages, shall be punished by imprisonment for six months to five years.

(2) The same punishment as referred to in Paragraph 1 of this Article shall be imposed on a person who denies or limits a member of a people, ethnic or national group or a minority the right to freely express his or her nationality or the right to cultural autonomy.

(3) Whoever, contrary to the regulations regulating the use of language and script, denies or deprives a citizen of the right to freely use his or her own language and script shall be punished by a fine or imprisonment for not more than one year."

26. In addition to this, the Criminal Code in Chapter XIII "Criminal Offenses against Values Protected by International Law" in Article 174 prescribes criminal offense of racial and other discrimination.

27. Article 174 of the Criminal Code reads as follows:

"(1) Whoever, on the grounds of discrimination against race, sex, color, national or ethnic origin, violates basic human rights and freedoms recognized by the international community shall be punished by imprisonment for six months to five years.

(2) The same punishment as referred to in Paragraph 1 of this Article shall be imposed on whoever prosecutes organizations or individuals for promoting equality between people.

(3) Whoever publicly states or disseminates ideas on the superiority of one race over another or incites racial hatred or incites racial discrimination shall be punished by imprisonment for three months to three years."

28. The analysis of the situation and tendencies regarding the number of these criminal offenses and persons reported to have committed them, in the period from January 1, 1990 to October 31, 1995 established that in the Republic of Croatia, in the period that was monitored, 1,145 commissions of such criminal offenses had been recorded, and 1,271 persons had been reported as suspects against whom grounded suspicion exists that they had committed these criminal offenses.

29. We are going to present the period from January 1, 1995 to December 31, 1998 in the following table:

CRIMINAL OFFENSES AGAINST FREEDOM OF CITIZENS

CRIMINAL OFFENSE	PERPETRATOR	1995	1996	1997	1998
UNLAWFUL DEPRIVATION OF FREEDOM	REPORTED	16	25	26	38
	INDICTED	14	15	5	16
	CONVICTED	3	9	2	6
KIDNAPPING	REPORTED	17	10	15	32
	INDICTED	12	10	9	13
	CONVICTED	12	10	8	11
EXTORTION OF STATEMENTS BY FORCE	REPORTED	17	8	6	7
	INDICTED	-	4	3	2
	CONVICTED	-	1	-	-
ENDANGERING SAFETY	REPORTED	154	135	129	-
	INDICTED	407	288	288	-
	CONVICTED	105	83	69	-
ESTABLISHMENT OF SLAVERY AND TRANSPORT OF SLAVES	REPORTED		1		1
	INDICTED			1	-
	CONVICTED				-

CRIMINAL OFFENSES AGAINST FUNDAMENTAL RIGHTS OF A PERSON AND A CITIZEN

CRIMINAL OFFENSE	PERPETRATOR	1995	1996	1997	1998
VIOLATION OF EQUALITY OF CITIZENS	REPORTED	1	-	5	2
	INDICTED	-	-	-	2
	CONVICTED	-	-	-	-
ABUSE IN PERFORMING OFFICIAL OR PUBLIC POWERS	REPORTED	73	81	68	80
	INDICTED	35	31	26	34
	CONVICTED	8	13	11	14

30. In this period there were no electoral criminal offenses, with the exception of one case in 1995 when one person was charged with violation of secrecy of voting.

31. According to the data from the National Bureau of Statistics, there were no criminal offenses of racial and other discrimination during the years under consideration (1994, 1995, 1996, 1997 and 1998). Criminal offense of violation of equality of citizens was not registered in 1994.

32. Article 2 of the Labor Law (NN 38/95, 54/95, 65/95) contains a special non-discrimination clause which prohibits discrimination on the basis of race, color, sex, marital status, family obligations, age, language, religion, political or other belief, national or social origin, wealth, birth, social status, membership or non-membership in a political party, membership or non-membership in a trade union, as well as physical and psychological difficulties.

33. Regarding the different treatment of aliens and Croatian citizens with respect to the acquisition and return of ownership, the Law on Ownership and other Property Rights (NN 91/96) regulates that foreign nationals may acquire real estate on the territory of Republic of Croatia subject to the condition of reciprocity (Article 356), i.e. it links the possibility of equal treatment of foreign nationals with the condition of reciprocity.

34. The Law on the Compensation for the Property Taken Away During the Yugoslav Communist Regime (NN 92/96) follows the same line. In its Article 11 it excludes the possibility of compensation for the property that was taken away from foreign nationals, except when this possibility is provided in a special international agreement.

35. Regarding the issue of the prohibition of discrimination and of equality before law, we are referring to the part of the report of Republic of Croatia according to Article 2 of the Convention on the Elimination of All the Forms of Racial Discrimination (CERD) and Article 2 and 15 of the Convention on the Elimination of Discrimination Against Women (CEDAW).

Paragraph 3

36. Article 18 of the Constitution envisages the right to an effective remedy as one of fundamental principles. This Article guarantees the right to appeal from individual legal acts passed in first instance court proceedings or proceedings before other authorized body. The right to appeal may exceptionally be denied in cases specified by law if other legal protection is ensured.

37. Article 19 of the Constitution guarantees judicial review of the legality of individual acts of administrative authorities and bodies vested with public powers. According to Article 20 of the Constitution, anyone violating the provisions concerning the basic freedoms and rights of man and citizen shall be held personally responsible and may not exculpate himself by invoking a higher order.

38. In accordance with Article 125 of the Constitution, the Constitutional Court of Republic of Croatia protects constitutional freedoms and rights of man and citizen.

39. The right to constitutional complaint, for the purpose of protection of constitutional freedoms and rights of man and citizen is regulated in Article 28 on of the Constitutional Law on the Constitutional Court of Republic of Croatia (NN 13/91) as follows:

"(1) Everyone who deems that his or her constitutional freedoms and rights of man and citizen (hereinafter: constitutional rights) are violated by a decision of a judicial, administrative or other authority vested with public powers may submit a constitutional complaint to the Constitutional Court.

(2) If this violation of constitutional rights is protected by other legal remedies, a constitutional complaint may be submitted only after these legal remedies have been exhausted.

(3) In matters in which an administrative dispute, or a revision in adversary or ex parte legal proceedings before courts is permitted, the legal remedy is exhausted after the decisions on these legal remedies is passed.

40. Constitutional complaint may be filed within one month starting from the date when the decision was received.

41. The decision which grants the complaint annuls the challenged act which violated a constitutional right and returns it to a renewed proceedings before a competent body.

42. The Constitutional Court of the Republic of Croatia has confirmed the significance of fundamental values of constitutional order, such as freedom, equality, national equality, etc. in a series of its decisions and decrees. The Constitutional Court has decided that "everyone" may file a constitutional complaint, regardless of reciprocity, or of the nationality or citizenship of the person concerned. However, constitutional complaint may not be filed on behalf of another person or on behalf of public interest. Only the person whose right has allegedly been violated has the right to file it (decision No. U-III-358/1993 of January 19, 1994). Constitutional

complaint may be filed by a legal entity as well (ruling of Constitutional Court No. U-III-52/92 of April 8 1992).

43. The Law on the System of State Administration (NN 75/93) prescribes in its Article 38, Paragraph 1, Point 4 that ministries shall decide administrative matters in second instance (on appeal).

44. The Law on General Administrative Proceedings (NN 53/91, hereinafter "GAP") is applied to the proceedings upon legal remedies. The right to appeal is guaranteed already in the basic principles of this Law. Article 11, Paragraph 1 prescribes that the party has the right to appeal from the decree passed in first instance, and that only law may prescribe that appeal is not permitted in some administrative matters, and only if the protection of rights and legality is provided in another way. Accordingly, the right to appeal is guaranteed as a general administrative-procedural rule and is a principle to be applied to all kinds of administrative matters. According to one of the fundamental principles of GAP, contained in Article 15, Paragraph 2 thereof, members of all minorities are guaranteed free use of their language and script in administrative proceedings, subject to the conditions prescribed in a special law.

45. Another basic principle from Article 14 of GAP is the provision of assistance to an ignorant party, i.e. the organ conducting the proceedings shall take care that ignorance and illiteracy of the party and other persons who participate in proceedings do not harm their legal rights.

46. Article 12 of GAP prescribes the basic principle according to which a decree against which an appeal may not be filed nor administrative dispute initiated (final decree), and by which a party had acquired certain right, or which imposes certain obligations to a party, may be annulled, declared void or amended.

47. If the proceedings are terminated by a decree or a conclusion against which a regular legal remedy is not permitted, a party may request a renewal of the proceedings (Article 249 and 250 of GAP). When the renewal is requested regarding a second instance decree, the proposal for the renewal shall be decided by the ministry.

48. Since the appeal as a regular legal remedy and the motion to renew the proceedings are not always effective remedies for the purpose of eliminating or amending illegal acts, there are also special cases of annulment, declaring void and amendment of decrees, such as:

1. Amendment and annulment of a decree in connection with administrative dispute (Article 261),
2. Request for the protection of legality (Article 262),
3. Annulment and declaring void based on the right of supervision (Article 263),
4. Declaring void and amendment of a final decree with consent of a party or upon party's request (Article 265),
5. Extraordinary declaring void (Article 266),
6. Annulment of a decree (Article 267).

- These extraordinary legal remedies are being undertaken mainly *ex officio* by the organ carrying out respective control,
- The request to protect legality (Article 262) may be filed exclusively by State's Attorney,
- The State's Attorney, as well as the Ombudsman, may move to declare void and move for annulment based on the right of supervision (Article 264)
- A party may move to annul and move to declare void based on the right of supervision (Article 264) and move to declare void and to amend a final decree (Article 265).

49. Every party in administrative proceedings must be informed about the legal remedy guaranteed to him or her by law. The instruction on the legal remedy is a mandatory part of the decree and is defined in Article 210 of GAP. The instruction on the legal remedy must contain information to the party about the right to file an appeal or initiate administrative dispute or other judicial proceedings against the decree. When an appeal is permitted against the decree, the instruction shall contain to whom the appeal must be addressed and to whom it must be submitted, within what time period and subject to what administrative fee and that it may be submitted orally and recorded in the minutes. When an administrative dispute may be initiated against a decree, the instruction must contain information to which court a complaint must be submitted and in what period, and when another proceedings may be initiated before a court, the instruction must contain information to which court the party may go to and in which period. A party must not bear any detrimental consequences resulting from an incorrect instruction.

50. During the period for which this Report is being filed, no cases of violations of the rights recognized in Point 3, Article 2 of the International Covenant on Civil and Political Rights were reported in practice.

51. **The Law on Criminal Procedure** (NN 110/97) – (hereinafter: LCP) prescribes in its Chapter XXIII regular legal remedies in criminal proceedings, namely:

Appeal from a judgement of a first instance court, Article 362

Authorized persons may take an appeal from a judgement passed at first instance within a term of fifteen days from the day the copy of the judgement is served.

Appeal from a judgement of a second instance court, Article 394

An appeal may be taken from the judgement of the court at second instance to the higher court (the court at third instance) only in following cases:

1) if the court at second instance imposed the punishment of long-term imprisonment or it affirmed the judgement at first instance which imposed such punishment;

2) if the court at second instance, after conducting a trial, determined the factual situation differently than the court at first instance and based its judgement on the thus determined factual situation;

3) if the court at second instance revised the judgement of acquittal passed by the court at first instance and passed the judgement of conviction.

Appeal from a decree, Article 395

The parties and persons whose rights were violated may take an appeal from a ruling of the investigating judge and from other rulings of the court at first instance, unless the appeal is not explicitly barred by this Law.

and extraordinary legal remedies:

- Reopening of criminal procedure, article 401-413
- Extraordinary mitigation of punishment, article 414-417
- Request for protection of legality, article 418-424.
- Request for extraordinary review of final judgement, article 425-429.

52. **The Law on Civil Proceedings** (NN 53/91 and 91/92) prescribes in its Chapter XXV regular legal remedies in judicial civil proceedings, namely:

1) Appeal from a judgement, Article 348

Parties may file an appeal from a first instance judgement within fifteen days from the service of the copy of the judgement, if this Law does not prescribe a different time period. This time period in disputes involving bill of exchange and check is eight days.

A timely filed appeal prevents a judgement to become final in the part challenged by the appeal.

The appeal from the judgement is decided by a second instance court.

2) Appeal from a decree, Article 378

An appeal is permitted against a first instance court decree, if not specifically prescribed in this law that such an appeal is not permitted.

53. The extraordinary legal remedies are as follows:

- Revision (Articles 382-400)
- Request for protection of legality (401-408)
- Reopening of proceedings (421-428)

54. The ratification of the **European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols**, provided for the citizens of the Republic of Croatia

another possibility of protection in the case of violation of human rights and fundamental freedoms. Namely, in accordance with Protocol 11 of the European Convention, any citizen who deems that his or her human right or fundamental freedom protected by the European Convention on the Protection of Human Rights and Fundamental Freedoms has been violated has the right, after having exhausted all the legal remedies in the Republic of Croatia, to initiate the proceedings before the European Court for Human Rights in Strasbourg.

ARTICLE 3

55. Equal rights of men and women is proclaimed in the Constitution, namely in its Article 14:

"Citizens of the Republic of Croatia shall enjoy all rights and freedoms, regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other properties.

All shall be equal before law."

56. Equality of men and women is regulated in the Labor Law, as well as in the Family Code (NN 162/98) which sets forth in its Article 33, Paragraph 1 that spouses are equal.

57. The realization of the constitutionally proclaimed prohibition of discrimination based on sex assumes the prohibition of discrimination and the equality of sexes in the realization of all the constitutionally guaranteed rights and freedoms, and accordingly, this subject matter is regulated by entire Croatian legislation, including Article 106 of the Criminal Code which sanctions the violation of equality based on differences in sex, etc. All international instruments also prohibit discrimination based on sex, either by expressly stating this right, or by general prohibition of any discrimination.

58. The mere prohibition is not sufficient. Therefore, international community has adopted a special international instrument which prescribes special measures to achieve real and full equality. This is the **UN International Convention on the Elimination of all Forms of Discrimination against Women** of December 18, 1979. The Republic of Croatia is a party to this Convention.

59. The Government of the Republic of Croatia has established a Commission for the Issues of Equality, responsible for the development of national policy aimed at strengthening of the role of women in society in accordance with the measures written in the Platform for Action, the final document of the Fourth World Conference on Women, and in accordance with the final documents of the World Summit on Social Development and International Conference on Population and Development.

60. A program of action has been drafted within the national policy of the Republic of Croatia for the promotion of equality, which assumes the following tasks:

In the field of human rights and equality of sexes:

- active work on confirmation or taking part in and implementation of international and regional treaties on human rights by the means of reviewing all draft laws by equality commission and other bodies engaged in the protection of human rights, before such draft laws enter the procedure before the Croatian State Parliament, and the review of their compatibility with fundamental international instruments which regulate the issue of equality of men and women;
- encouragement of permanent education on human rights and on the right of women to non-discriminatory treatment, as the basic prerequisite for the increase of awareness of all citizens regarding human rights and the right of both sexes to their equal enjoyment;
- cooperation with NGOs which are involved in the protection of human rights, specially in the issues of discrimination based on sex, as well as participation in joint programs with these associations through commissions for the issues of equality.

In the field of institutionalized mechanisms for the improvement of the position of women

- inclusion of gender perspective in legislation, public policy, programs and projects, as well as collection and publishing of data classified by gender;
- promotion of activities of Governmental Commission for the Issues of Equality through media, and informing of the public about its work;
- promotion of national policy for the promotion of equality of women and men, in order to remove obstacles in the realization of rights of women and to eliminate all forms of discrimination.
- expanding of mechanisms for the protection of women and struggle against discrimination through judicial system,
- broad education about the issues of equality provided to all the officials, public servants and employees at all levels;
- work on the promotion of gender perspective in all the laws and in politics, as well as,
- collection, compilation, analysis and presentation of statistical data on individuals according to sex and age, reflecting problems and issues in connection with women and men in society.

Women in Positions of Power and Decision Making

61. The right of women to participate in the creation and implementation of governmental policy, to occupy leading positions and to discharge public functions at all levels of government stems already from the provisions of the mentioned election laws, according to which active and passive electoral right is general and equal. However, in the occupation of leading positions and carrying out public functions, women have not reached a representation proportional to the number of men at all levels.

62. In the Government of the Republic of Croatia, one woman is a Deputy Prime Minister (out of 5 Deputy Prime Ministers), and two woman are Ministers.

63. The representation of women in the performing of tasks of Deputy Minister or Assistant Minister is greater. Accordingly, within 17 ministries there are 5 female Deputy Ministers, 8 Assistant Ministers and 3 Directors of Institutes which are parts of ministries.

64. Out of 127 MPs in the House of Representatives of the Croatian National Parliament 10 are women. One of them is Deputy President of that House, and two are Chairpersons of working bodies. The House of Counties is somewhat with 68 MPs, 4 of them women. One is the President of the House, and one is a Chairperson of a working body.

65. Women make 5.7% of representatives in the Croatian State Parliament. This is an increase in relation to the previous session of the Croatian State Parliament when they were represented by 5.4%.

66. Women are represented in significant numbers in judicial bodies. Although there are no precise data on the number of women presidents of courts for 1994 and they were not registered for that year, the following tables confirm the previously presented conclusion.

REPRESENTATION OF FEMALE JUDGES AT THE COURTS OF THE REPUBLIC OF CROATIA

1994

COURT	NUMBER OF COURTS	NUMBER OF JUDGES	FEMALE JUDGES	FEMALE PRESIDENT OF THE COURT
MUNICIPAL COURTS	99	647	358	
COUNTY COURTS	14	244	82	
COMMERCIAL COURTS	8	102	42	
SUPREME COURT OF THE REPUBLIC OF CROATIA	1	27	7	
ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA	1	14	5	
HIGH COMMERCIAL COURT OF THE REPUBLIC OF CROATIA	1	17	4	
TOTAL	124	1051	498	

1995

COURT	NUMBER OF COURTS	NUMBER OF JUDGES	FEMALE JUDGES	FEMALE PRESIDENT OF THE COURT
MUNICIPAL COURTS	99	549	302	21
COUNTY COURTS	14	212	69	1
COMMERCIAL COURTS	8	71	36	2
SUPREME COURT OF THE REPUBLIC OF CROATIA	1	25	10	
ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA	1	17	11	
HIGH COMMERCIAL COURT OF THE REPUBLIC OF CROATIA	1	20	5	
TOTAL	124	894	433	24

1996

COURT	NUMBER OF COURTS	NUMBER OF JUDGES	FEMALE JUDGES	FEMALE PRESIDENT OF THE COURT
MUNICIPAL COURTS	99	659	404	21
COUNTY COURTS	14	246	98	1
COMMERCIAL COURTS	8	88	42	3
SUPREME COURT OF THE REPUBLIC OF CROATIA	1	25	10	
ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA	1	17	11	
HIGH COMMERCIAL COURT OF THE REPUBLIC OF CROATIA	1	20	5	
TOTAL	124	1055	570	31

1997

COURT	NUMBER OF COURTS	NUMBER OF JUDGES	FEMALE JUDGES	FEMALE PRESIDENT OF THE COURT
MUNICIPAL COURTS	99	713	442	30
COUNTY COURTS	15+5 (under stablishment)	286	105	1
COMMERCIAL COURTS	8	98	47	3
SUPREME COURT OF THE REPUBLIC OF CROATIA	1	25	10	
ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA	1	17	11	
HIGH COMMERCIAL COURT OF THE REPUBLIC OF CROATIA	1	20	5	
TOTAL	130	1159	620	34

1998

COURT	NUMBER OF COURTS	NUMBER OF JUDGES	FEMALE JUDGES	FEMALE PRESIDENT OF THE COURT
MUNICIPAL COURTS	99	834	529	38
COUNTY COURTS	17+3 (under stablishment)	309	123	1
COMMERCIAL COURTS	8	125	69	2
SUPREME COURT OF THE REPUBLIC OF CROATIA	1	36	16	-
ADMINISTRATIVE COURT OF THE REPUBLIC OF CROATIA	1	30	21	-
HIGH COMMERCIAL COURT OF THE REPUBLIC OF CROATIA	1	19	5	-
TOTAL	130	1353	763	41

67. The ratio between women and men in the practice of law (attorneys-at-law), according to the data of the Croatian Bar Association of December, 1998 is the following:

68. The Croatian Bar Association has 2.245 members, registered attorneys-at- law and 30% of them are women. 5 out of 30 members of the Managing Board of the Croatian Bar Association are women.

69. 53% of 640 attorney apprentices in the Republic of Croatia are women.

DEPUTY STATE ATTORNEYS (women)
IN THE STATE ATTORNEYS' OFFICES
IN THE REPUBLIC OF CROATIA

As of December 31, 1995

NAME OF THE STATE ATTORNEY'S OFFICE	TOTAL NUMBER OF STATE ATTORNEYS AND DEPUTY STATE ATTORNEYS	WOMEN OUT OF THAT TOTAL	%
MUNICIPAL STATE ATTORNEYS	202	93	46,04
COUNTY STATE ATTORNEYS	96	38	39,58
STATE ATTORNEY'S OFFICE OF THE REPUBLIC OF CROATIA	16	1	6,25
TOTAL	315	132	42,04

As of December 31, 1996

NAME OF STATE ATTORNEY'S OFFICE	TOTAL NUMBER OF STATE ATTORNEYS AND DEPUTY STATE ATTORNEYS	WOMEN OUT OF THAT TOTAL	%
MUNICIPAL STATE ATTORNEYS	174	87	50
COUNTY STATE ATTORNEYS	97	34	35,05
STATE ATTORNEY'S OFFICE OF THE REPUBLIC OF CROATIA	14	3	21,42
TOTAL	285	124	43,50

As of December 31, 1997

STATE ATTORNEYS OFFICES	TOTAL NUMBER OF STATE ATTORNEYS AND DEPUTY STATE ATTORNEYS	WOMEN OUT OF THAT TOTAL	%
MUNICIPAL STATE ATTORNEYS OFFICES	190	97	51.05
COUNTY STATE ATTORNEYS OFFICES	96	34	35,41
STATE ATTORNEYS OFFICE OF THE REPUBLIC OF CROATIA	14	3	21,42
TOTAL	300	134	44,66

As of December 31, 1998

STATE ATTORNEYS OFFICES	TOTAL NUMBER OF STATE ATTORNEYS AND DEPUTY STATE ATTORNEYS	WOMEN OUT OF THAT TOTAL	%
MUNICIPAL STATE ATTORNEYS OFFICES	227	126	55,5
COUNTY STATE ATTORNEYS OFFICES	113	39	34,5
STATE ATTORNEYS OFFICE OF THE REPUBLIC OF CROATIA	14	3	21,4
TOTAL	354	168	47,6

Women and Health

70. An increased possibility of access of women to apropriate and quality health care throughout their life, their access to inform..tion, providing incentives to preventive programs for the promotion of their health, starting initiatives sensitive to gender aspect which resolve the problems of venereal contagious diseases, HIV/AIDS, as well as issues of sexual and reproductive health, are being planned.

Education and Professional Training of Women

71. In order to fulfill this task, a program of systematic study of equality of sexes in the system of education and professional training will be developed, as well as educational programs on human rights at all levels of education. Special encouragement will be given to universities, specially to undergraduate and graduate study of law and studies of social and political science in

order to include in their curricula studies of human rights of women, as determined in UN conventions. The number of women at leading positions in schools and other segments of educational work will be increased.

Violence Against Women

72. Periodical reviews and analysis of laws are planned in order to provide for their efficiency in removing violence against women, with emphasis given to the prevention of violence and to the prosecution of offenders. The plans also include provision of accommodation and assistance to the girls and women exposed to violence, as well as provision of medical, psychological and other counseling services and free or low-cost legal assistance wherever necessary. They also include support for initiatives coming from women's associations and non-governmental organizations for the purpose of eliminating violence against women and spreading of information on the assistance that is available to them.

73. We are presenting an overview of statistical data for the period between January 1, 1994 and December 31, 1998, issued by the State Institute for Statistics about some of the acts of violence against women, such as crimes of rape, sexual intercourse with a helpless person, sexual intercourse by duress, sexual intercourse by abuse of position and the crime of lewd acts.

REPORTED, INDICTED AND CONVICTED PERPETRATORS BY CRIMINAL OFFENSES

CRIMINAL OFFENSE	PERPETRATOR	1994	1995	1996	1997	1998
RAPE	REPORTED	98	82	92	107	116
	INDICTED	72	50	42	50	36
	CONVICTED	63	29	20	37	29
SEXUAL INTERCOURSE WITH A HELPLESS PERSON	REPORTED	8	4	4	5	9
	INDICTED	8	2	2	2	3
	CONVICTED	7	1	2	1	2
SEXUAL INTERCOURSE BY DURESS	REPORTED	-	1	-	3	3
	INDICTED	-	1	-	2	1
	CONVICTED	-	1	-	-	1
SEXUAL INTERCOURSE BY ABUSE OF POSITION	REPORTED	-	-	-	-	2
	INDICTED	-	-	-	-	-
	CONVICTED	-	-	-	-	-
LEWD ACTS	REPORTED	52	68	49	56	79
	INDICTED	25	41	28	46	46
	CONVICTED	18	36	5	38	27

Women and Economy

74. For the purpose of the promotion of economic rights and independence of women, including access to employment, appropriate working conditions and control over economic resources, and for the purpose of the promotion of harmonization of duties at work and in family for both women and men, the following is planned:

- collective negotiations with proportionate representation of women in negotiating teams and systematic implementation of legislation which guarantees equal pay for equal work to men and women;
- adapting of measures of active employment policy to the needs of women, in order to provide for their easier access to labor market and in order to encourage self-employment of women, and
- encouragement of men to use legally prescribed right to parental leave, which will promote equal share of women and men in family obligations.

Women and Armed Conflicts

75. Non-violent forms of conflict resolution and reduction of number of violations of human rights in conflicts will be encouraged. The contribution of women in the preservation of peace will be emphasized. Women-displaced persons will be offered protection, assistance and training. The procedure of identification and condemnation of systematic practice of rape and other forms of inhuman and degrading treatment of women as an intentional instrument of war and ethnic cleansing will be continued. Other measures aimed at investigating and punishing of members of police, security and armed forces and other who committed violence against women, violated international humanitarian law or violated human rights of women in armed conflicts will be undertaken.

ARTICLE 4

76. In relation to the provision of Article 4 of the Covenant, the following legislation is in force in the Republic of Croatia:

77. Article 101, Paragraph 1 of the Constitution

"The President of the Republic shall pass decrees with the force of law and take emergency measures in the event of a state of war or an immediate threat to the independence and unity of the State, or when the governmental bodies are prevented from regularly performing their constitutional duties. During the time the President of the Republic is exercising such powers, the House of Representatives may not be dissolved."

78. The Constitution envisages three basic cases of disturbances, i.e. of the interference of executive body into the scope of competence of the legislative body:

1) in the case of emergency, i.e. when the state is at danger due to external or internal reasons,
2) when direct constitutional authority to regulate certain social relations by general normative acts is given to executive bodies,

3) in the case of legislative delegation, when the legislative body delegates, to a smaller or greater extent, its legislative powers to the executive bodies.

79. As a democratic constitution, the Constitution of the Republic of Croatia expressly provides that as soon as the House is in the position to convene, the President of Republic must submit to the House of Representatives of the Parliament the decree with the force of law which he passed in the case of emergency, for approval (ratification).

80. The President of Republic may pass decrees and take emergency measures in the following three cases:

1) in the state of war
2) in the state of an immediate threat to the independence and unity of the state
3) when the governmental bodies are prevented from regularly performing their constitutional duties.

81. During any of the above-mentioned states of emergency, i.e. while the president is passing decrees with the force of law and taking emergency measures, he may not dissolve the House of Representatives of the Croatian National Parliament.

82. The situations in which it is necessary to limit the rights and freedoms of citizens must be precisely determined. Accordingly, such a limitation is regulated in Article 17 of the Constitution of the Republic of Croatia, which reads as follows:

"During a state of war or an immediate threat to the independence and unity of the State, or in the event of severe natural disasters, individual freedoms and rights guaranteed by the Constitution may be restricted. This shall be decided by the Croatian State Parliament by a two-thirds majority of all members or, if the Croatian State Parliament is unable to meet, by the President of the Republic.

The extent of such restrictions shall be adequate to the nature of the danger, and may not result in the inequality of citizens due to their race, color, sex, language, religion, national or social origin.

Not even in the case of an immediate threat to the existence of the state may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life, prohibition of torture, cruel or degrading treatment or punishment, on the legal definitions of criminal offenses and punishments, or on freedom of thought, conscience and religion."

83. In addition to the above mentioned restriction, the Constitution precisely determines in which cases the rights and freedoms of citizens may be restricted.

84. Article 59, Paragraph 3 of the Constitution of the Republic of Croatia:

"Formation of trade unions in the armed forces and the police may be restricted by law."

85. Article 60, Paragraph 2 of the Constitution of the Republic of Croatia:

"The right to strike may be restricted in the armed forces, the police, the public administration and the public services specified by law."

ARTICLE 5

86. In connection with the provision of Article 5 of the International Covenant on Civil and Political Rights, we quote the following provisions of the Constitution of the Republic of Croatia:

Article 16: "Freedoms and rights may only be restricted by law in order to protect freedoms and rights of others, public order, public morality and health."

Article 20: "Anyone who violates the provisions of this Constitution concerning the fundamental freedoms and human rights shall be held personally responsible and may not be exculpated by invoking a superior order."

Article 22, Paragraph 2: "No one shall be deprived of liberty, nor may his or her liberty be restricted, except upon a court decision in accordance with law."

Article 23, Paragraph 1: "No one shall be subjected to any form of maltreatment or, without his or her consent, to medical or scientific experimentation."

Article 24, Paragraph 1: "No one shall be arrested or detained without a court warrant. Such a warrant shall be read and served on the person being arrested."

Article 26: "All citizens and aliens shall be equal before the courts, governmental agencies and other bodies vested with public authority."

Article 28: "Everyone shall be presumed innocent and may not be considered guilty of a criminal offense until proved guilty by a final court judgement."

Article 32, Paragraph 3: "The liberty of movement within the Republic of Croatia and the right to enter or leave it may exceptionally be restricted by law, if this is necessary to protect public order or health, or the rights and freedoms of others".

Article 36, Paragraph 2: "Restrictions necessary for the protection of state security and the conduct of criminal proceedings may be prescribed only by law."

Article 43, Paragraph 2: "The exercise of free integration into associations shall be restricted by the prohibition of any violent threat to the democratic constitutional order and independence, unity and territorial integrity of the Republic of Croatia."

Article 50, Paragraphs 1 and 2: "Property may, when it is required in the interest of the Republic of Croatia, be restricted or expropriated by law upon payment of compensation of its market value."

"The exercise of entrepreneurial freedom and property rights may exceptionally be restricted by law for the purposes of protecting the interests and security of the Republic of Croatia, nature, the human environment and public health."

87. Article 5 of the Covenant determines, in fact, the extent of the protection of civil and political rights, guaranteed by the Covenant. Provision of Paragraph 1 establishes the protection prescribed in the Covenant as the minimum. According to that provision, if there is a conflict between the provisions of the Covenant and internal Croatian legislation, where internal Croatian legislation offers weaker protection of those rights than the Covenant, the provision of Article 134 of the Constitution of the Republic of Croatia shall in principle be applicable, according to which international agreements concluded and ratified in accordance with the Constitution and made public, and which are in force, shall be part of domestic legal order of the Republic of Croatia, and shall have legal force superior to law. Their provisions may be changed or repealed only under conditions and in the way specified in them, or in accordance with the general rules of international law.

88. Accordingly, these conflicts could be resolved by direct implementation of the provisions of the Covenant.

89. However, there are also other ways to resolve such situations, such as the initiation of the procedure to evaluate constitutionality of laws which are not offering sufficient protection of a civil or political right. For example, in its decision Number U-I-20/1992 (NN 31/98) the Constitutional Court of the Republic of Croatia took stance that the realization of the constitutional right to conscientious objection, in accordance with the provisions of Article 47, Paragraph 2 and Article 40 of the Constitution of the Republic of Croatia, and in accordance with the provisions of Article 18 of the Covenant, and Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, may not be restricted by prescribing time limits in which conscientious objection may be stated, i.e. this right may not be made subject to time limits after which it may not be requested anymore.

90. Paragraph 2 of Article 5 of the Covenant determines that there shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any state party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent. This provision determines the relation between the Covenant and other legislation and conventions which offer equal or broader protection of civil and political rights, so accordingly, this interpretation would be applied in the Republic of Croatia.

ARTICLE 6

91. In relation to the provision of Article 6, the legislation of the Republic of Croatia prescribes as follows:

The right to life: The right to life is a basic, natural right of a person, guaranteed in the Republic of Croatia in Article 21 of the Constitution, which reads as follows: "Every human being has the right to life. In the Republic of Croatia there shall be no capital punishment.". Article 17, Paragraph 3 of the Constitution prescribes: "Not even in the case of an immediate

threat to the existence of the state may restrictions be imposed on the application of the provisions of this Constitution concerning the right to life...".

92. The right to life is a constitutional right, protected by the Constitutional Court. This court protects constitutional freedoms and rights of a person by the means of constitutional complaint, when these rights are violated by a body vested with public authority.

93. By the notification of succession of October 8, 1991, the Republic of Croatia became a party to the following treaties which contain the provisions on the right to life or which are relevant for the interpretation of the scope of protection of the right to life: International Covenant on Civil and Political Rights, Convention on the Prevention and Punishment of the Crime of Genocide; Convention on the Elimination of all the Forms of Discrimination against Women; Convention on the Rights of the Child, and it has also joined the Second Additional Protocol to the International Covenant on Civil and Political Rights, dedicated to the abolition of death penalty, of December 15, 1989 (NN 7/95).

94. On October 8, 1991, the Law on the Taking Over of the Criminal Code of the Predecessor State (NN 53/91) abolished death penalty in the Republic of Croatia. The existing law of the Republic of Croatia does not envisage death penalty.

95. On the occasion of its joining the Second Additional Protocol to the International Covenant on Civil and Political Rights, the Republic of Croatia did not make any reservations.

96. **The Criminal Code of the Republic of Croatia** protects the right to life, i.e. sanctions arbitrary deprivation of life from birth to death in its numerous chapters.

Criminal offenses against life and limb (Chapter X)

97. In this Chapter these criminal offenses are systematized in two sub-groups, based on the consequences which have occurred, namely criminal offenses which inflict harm to life and limb and criminal offenses which constitute a threat to life and limb.

98. Criminal offenses which inflict harm to life and limb are the following:

- Murder – basic form (Article 90) and
- Capital Murder – qualified form (Article 91)
- Manslaughter (Article 92)
- Infanticide (Article 93)
- Negligent Homicide (Article 95)
- Killing on Request (Article 94)

99. Criminal offenses which constitute a threat to life and limb:

- Bodily Injury (Article 98)
- Aggravated Bodily Injury (Article 99)
- Negligent Bodily Injury (Article 101)
- Failure to Render Aid (Article 104)
- Deserting a Helpless Person (Article 105)

- Participation in an Affray (Article 103)
- Unintentional Bodily Injury (Article 100).

CRIMINAL OFFENSE	1994	1995	1996	1997	1998
	R I C	R I C	R I C	R I C	R I C
Murder	346 218 170	296 155 112	233 123 100	251 150 107	286 151 103
Capital Murder	43 39 32	46 12 9	65 22 17	55 20 10	74 23 17
Manslaughter	8 25 21	4 6 5	- 8 7	2 9 8	1 11 10
Infanticide	4 3 3	8 2 1	9 7 4	8 2 2	9 4 2
Negligent Homicide	26 24 19	27 15 12	14 16 14	14 25 16	17 21 17

R- reported persons, I – indicted persons, C-convicted persons

The following criminal offenses also belong to the third group of criminal offenses from Chapter X of the Criminal Code of the Republic of Croatia:

- Aiding and Abetting Suicide (Article 96)
- Unlawful Termination of Pregnancy (Article 39, Paragraph 4) which is elaborated in more detail in the Law on Health Care Measures for the Realization of the Right to Free Decision on Child Birth (NN 18/78).

6. Criminal Offenses against Public Safety of People and Property and Safety of Traffic (Chapter XX):

- Serious criminal offenses against public safety (Article 271)
- Endangering life and property by dangerous public acts or means (Article 263)

7. Criminal offenses against people's health (Chapter XVIII)

- Transmission of Contagious Diseases (Article 238)
- Transmission of Venereal Diseases (Article 239)
- Medical Malpractice (Article 240)
- Arbitrary Medical Treatment (Article 241)
- Illicit Transplantation of Parts of the Human Body (Article 242)
- Failure to Render Medical Aid (Article 243)
- Quackery (Article 244)
- Preparation and Production of Hazardous Drugs (Article 245)
- Carelessness in Preparation and Dispensing of Drugs (Article 246)
- Production and Circulating of Harmful Foodstuffs (Article 247)
- Careless Inspection of Meat Food (Article 248)
- Serious Criminal Offenses Against People's Health (Article 249)

8. Criminal Offenses Against the Republic of Croatia (Chapter XII)

- Assassination of the Highest State Officials (Article 138)

100. Although the object protected by this criminal offense is the constitutional order of the Republic of Croatia, this provision indirectly protects lives of the representatives of the highest authorities.

9. Criminal Offenses Against the Values Protected by International Law (Chapter XIII), statistical data presented ad Article 20 of the Covenant.

- Genocide (Article 156)
- War of Aggression (Article 157)
- War Crimes Against the Civilian Population (Article 158)
- War Crimes Against the Wounded and Sick (Article 159)
- War Crime Against Prisoners of War (Article 160)
- Unlawful Killing and Wounding the Enemy (Article 161)
- Forbidden Means of Warfare (Article 163)
- International Terrorism (Article 169)
- Endangering the Safety of Persons Under International Protection (Article 170)
- Taking of Hostages (Article 170)
- Misuse of Nuclear Materials (Article 171)
- Hijacking an Aircraft or a Ship (Article 179)
- Piracy on the Sea and in the Air (Article 180)
- Abuse of Narcotic Drugs (Article 173)

101. The number of the above criminal offenses is a sign of a comprehensive protection of human life offered by the Criminal Code. However, laws frequently have only indicative value, and it is the administration that implements them. In this sense, the field in which administration is active in the implementation of laws (passing of regulations that have practical value) is broad. In some cases the role of administration is twofold. It passes regulations which are to be applied, but it should also create such conditions where prevention can reduce the need for repressive laws - which are only the *ultima ratio* of social action - to the smallest possible degree.

102. It is clear that a whole range of executive bodies participate in the prevention of criminal offenses, specially of the most serious ones, which target the life of a person. In this context, a whole series of institutions, including the Ministry of Defense, Ministry of Interior, Ministry of Labor and Social Welfare, Ministry of Justice and many other ministries, should be and indeed are, by the virtue of their existence, and by their organization, on the line of the preventive action regarding all the types of criminal offenses which result in the death of human beings.

103. Regarding the fact that the right to life assumes the obligation of the state to take certain measures aimed at reducing the death rate of newborn children, extension of life expectancy, improvement off health conditions etc, we are presenting a partial overview which was given in reference to Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 12 of the Convention on the Elimination of Discrimination of Women. Both of these instruments are regulating the right to enjoy the highest standards of physical and mental health.

104. The overview of health condition of the population of Croatia is regularly presented by selected indicators according to the methodology of the World Health Organization (WHO). These overview is, as a rule, submitted once a year to the WHO – Regional Office in Copenhagen.

105. The basic indicators of health condition are the leading causes of death and of the most frequent diseases which result in requests for medical treatment.

106. 50.536 persons died in 1995 in Croatia, which equals to 11.3% mortality rate per 1.000 inhabitants. On the top of the list of the groups of diseases that are causing death in Croatia are cardiovascular diseases. More than 50% of persons die of these diseases. Next on the list are tumors that cause more than 20% of deaths, followed by wounds and poisoning, causing about 8% of deaths. Since 1995, the sequence of groups of diseases has not significantly altered, except for the groups of contagious and parasitical diseases (they have continuously slightly fallen from 10^{th} to 11^{th} place) and mental illnesses and disturbances (with continuos stronger progress, they have climbed from 11^{th} to 10^{th} place).

107. The diseases of circulation system which are most represented in mortality rates are cardoischemia and cerebrovascular diseases. An analysis of standardized mortality rates for cardio and vascular diseases points to an increase of mortality rates for 1990, compared with 1980, for ages 0-64, and for the total of all ages. From 1990 we have noted a decrease of standardized mortality rates for the total number of deceased and for the deceased age 0-64. A compatible trend can be noted regarding cerebrovascular diseases.

108. Perinatal and mater-natal mortality are most frequently used indicators for the protection of maternity. A decrease of early neonatal mortality was the basic factor of decrease of perinatal mortality in the period from 1980 to 1995. The continuity of tendency of decrease of perinatal mortality was continued during the wartime in the period 1993-1995 and in 1995 it was 9,2 per 1.000 total births.

109. Immediately after the liberation, the background of this policy, i.e. the existing health care legislation, was changed, and already in 1991 the Health Council of the Republic of Croatia wrote a health-political document – following the model of other European countries – The Croatian Strategy "Health for All by the Year 2000".

110. It was impossible to implement this strategy earlier because of the war imposed against Croatia.

111. Therefore the Minister of Health passed a new health-political document called "Policy and Strategy 'Health For All by the Year 2005", which has been accepted recently by the National Health Council.

112. Primary health care (PHC) has priority in all the documents.

113. This is evidenced by some other data: Croatia is cooperating with international organizations, and at this PHC has priority in the field of health care. Accordingly, we are working with the WHO on the project of further and stronger development of PHC in Croatia.

114. A very successful project with the World Bank on expansion and strengthening of PHC in Croatia is currently being carried. This project has three main tasks:

- to improve the coverage of the entire territory with PHC units
- to improve professional competency of doctors who work in PHC
- to provide necessary equipment to PHC units in order to enable them to be professionally self-sufficient to appropriate degree.

115. According to the official report of the Ministry of Health based on the data which are being collected in Croatian Institute for Statistics and Croatian Health Care Institute, Croatia is spending 7,6% of its GDP on health care.

116. Out of these resources, 15,4% goes for PHC (in 1994). The following data serve as a comparison with the previous periods:

1985 – 10,3% of GDP spent on PHC
1990 – 14,5% of GDP spent on PHC.

117. One of the most significant indicators of health condition of children, namely the infant mortality has been reduced by almost 50% in the period between 1980 and 1990 (1980 – 20.6 per 1.000 babies born alive, 1990 10.7/1,000 babies born alive). After a brief war-related increase, a decrease of infant mortally continued and in 1995 it was 8.9/1,000 babies born alive (Table 1). Major regional differences in the mortality rate as well as annual fluctuation of rates within same counties are deemed to be the basic characteristics of infant mortality in Croatia.

118. The pediatricians who work for the Health Care Fund and private pediatricians who have a contract with the Fund, take care of about 70% of children age 0-6, while the remaining 30% of children are treated by family doctors.

119. Basic health care is ensured and guaranteed for all citizens of Croatia, regardless of age, sex, religion or ethnicity. The goal of the general strategy of Croatian health care system is to provide the highest possible degree of health to its population, respecting at the same time the Global Strategies of the World Health Organization.

120. **The Republic of Croatia did not make any reservations to Article 2 of the Second Facultative Protocol.**

ARTICLE 7

121. Several provisions of the Constitution of the Republic of Croatia have incorporated the rights from Article 7 of the Covenant. According to Article 23, Paragraph 1 "No one shall be subjected to any form of maltreatment or, without his or her consent, to medical or scientific experimentation.", and according to Article 17, Paragraph 3, "Not even in the case of an immediate threat to the existence of the state may restrictions be imposed on the application of the provisions of this Constitution concerning the ....prohibition of torture, cruel or degrading treatment or punishment...", i.e. this right is made absolute, can not be derogated, and according to Article 29, Paragraph 2 of the Constitution it is forbidden to "compel a charged and accused person to testify against himself or herself or to confess guilt."

122. The rights from Article 7 of the Covenant are connected with international treaties, such as the UN Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment and Punishment of December 10, 1984 and the European Convention on the Prohibition of Torture or Inhuman or Degrading Treatment or Punishment, to which Croatia is a party.

The prohibition of torture is regulated in Croatian legislation in:

- The Criminal Code (NN 110/97)
- The Law on Criminal Procedure (LCP) (NN 110/97),
- The Law on the Execution of Sanctions Inflicted for Criminal Offenses, Economic Infringements and Misdemeanors (NN 21/74, 19/90, 66/93),
- The Law on the Protection of Mentally Ill Persons (NN 111/97)

123. The new Criminal Code which took effect on January 1, 1998 introduces a new criminal offense of "torture and other cruel, inhuman or degrading treatment" (Article 176), sanctioned by a prison sentence from six months to five years. This crime was included in the Special Part of

the Criminal Code to fulfil international obligations from the UN Convention against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment and Punishment from 1984, namely Article 1 of that Convention.

124. The Law on Criminal Procedure forbids the use of force, threat or other similar means to obtain a confession or a statement (Article 4, Article 225, Article 235, Article 235, Article 265 of the LCP). As a consequence the statements obtained in such an illegal manner are not only invalid, but the court has the obligation, *ex officio,* to decide on the exclusion of this evidence from the file before passing the decision (Article 78, Article 274, Article 284, Article 331, Article 373 of the LCP).

125. The procedure related to detainees is regulated in Articles 113-117 of the LCP.

126. Criminal sanctions are being executed in six main penitentiaries, fourteen county prisons and two specialized institutions for reeducation of minors. According to safety level, gender of inmates, duration and main purpose of a prison sentence, penitentiaries in the Republic of Croatia may be divided in several groups: there is one high-security prison (located in Lepoglava), one prison for female offenders, of a combined type (with high security, medium security and low security units, located in Požega), one medium security institution for grown up male offenders (located in Turopolje) and two low security institutions for grown up male offenders (located in Lipovica and Valtura). There is a special hospital for inmates located in Zagreb, used by inmates from all penitentiaries.

127. Persons convicted to prison sentence of 5 or more years are sent to high security prisons. Persons who do not meet professionally established penal and legal criteria (social, psychological and medical) to stay in medium security or low security institutions are treated in the same way. Persons sentenced to prison for less than 5 years are sent to low security and medium security institutions, if they meet the said criteria and if they seem appropriate for institutions where rules are based on self discipline and personal awareness of responsibilities. Accused persons who are in detention during criminal proceedings are located in 14 court jails, who are near county courts. Separate units of these prisons, of which some were recently remodeled, and in which the standards of accommodation were significantly improved, are also being used for brief prison sentences (up to six months).

Treatment of Sentenced Persons

128. The treatment of sentenced persons is regulated in the Law on the Execution of Sanctions. Individual principles contained in this Law are regulated in detail in numerous regulations of the Ministry of Justice. Although scattered in many places, these regulations demonstrate that during the previous practice of the execution of prison sentences in the Republic of Croatia the degree of the discretion of state administration has been constantly reduced, and that it has mostly fallen under general normative framework.

129. According to the existing Law on the Execution of Sanctions, an inmate has the right to minimal standards of accommodation, hygiene, and food, to health care and clothes, to general education (for junior persons of age who have not finished elementary school), the right to compensation for work, right to daily, weekly and annual rests, right to correspondence without limitation and control of the content of mail (if sentence is served in a low or medium security prison) to receive parcels under surveillance, to visits by family members (which may not be limited to less than one hour) two to four times a month and to receive mail from them containing underwear, things, press, books and money (which may be spent only within the limits of the rules of the prison) at least once a month, the right to visits by attorney (if more than once a month it is subject to approval of a warden), as well as the right to submit appeals for pardon, conditional release, and to file complaints regarding violations of rights. These motions are submitted to the Ministry of Justice either orally during a report (about which minutes must be made and sent to the competent body) or in writing, in a closed envelope, through the prison administration. The inmates are otherwise subjected to special restrictions of personal freedom when entering penitentiary: personal searches, procedures to establish identity which include taking photographs and fingerprints and disciplinary sanctions, out of which the most serious is solitary confinement for 30 days.

Solitary Confinement, Medical Interventions and Accommodation of Prisoners

130. According to the Law on the Execution of Sanctions, a sentenced person may be sent to a solitary confinement up to 30 days. This disciplinary punishment is applied only in high security prisons, and may be inflicted by a warden after having heard inmate and checked his or her defense and if it would not jeopardize his or her health.

131. Exceptionally, a measure of isolation may be imposed on an inmate who represents serious danger for security. This measure may last up to one third of the imposed sanction, but it may continuously last for not more than three months. The isolated sentenced persons may be allowed to work at certain working place. The Law on the Execution of Sanctions (Article 169) regulates that disciplinary measure of isolation "may not be applied if its execution would jeopardize inmate's health", but the law does not require regular periodic checks by a doctor, which it should.

132. According to Article 143 of the Law on the Execution of Sanctions, medical treatment of an inmate, when justified by medical indications, may not be applied without his or her consent, except in cases envisaged in general laws and regulations. According to Article 145, Paragraph 1 of the Law, an inmate who during the serving of sentence becomes mentally ill or demonstrates

"serious psychological disturbances" shall be sent to the psychiatric ward of the hospital for inmates or to another appropriate medical institution. The decision on this, According to Paragraph 2 of the same Article, shall be passed by the Minister of Justice subject to the consent of the Minister of Health, upon a proposal of prison administration and an opinion of medical team regarding his or her or her health.

133. The existing Law on the Execution of Sanctions does not regulate the subject matter of scientific experiments, so this should be corrected in the new Law.

134. The provisions of the Law on the Execution of Sanctions which relate to a) accommodation of inmates (Article 113 insufficiently regulates minimum of sanitary equipment and does not envisage possibility for inmates to spend nights in individual cells); b) transfer of inmates (Articles 161-162 insufficiently protect the personality of inmate from public and from inadequate transportation from one prison to another); c) the use of means of coercion (Articles 175-179 do not subject the use of otherwise permitted fire arms to standard restrictions from the so-called principle of proportionality); d) disciplinary measure of isolation (Article 169 prescribes that it "may not be applied if its execution would jeopardize inmate's health", but it does not require regular periodic medical checks of these inmates);

135. In its decision of March 18, 1996, the Minister of Justice delegated the task of making a draft of the Bill on Execution of Prison Sentence to an expert group. The draft Bill is currently pending parliamentary procedure.

Protection of Mentally Ill Persons

136. The position of inferiority and helplessness makes mentally ill persons specially apt for torture, inhuman treatment and degradation. Therefore, both the Commission and the Court pay special attention to their protection. The Law on the Protection of Persons with Mental Disturbances, which took effect on January 1, 1998 was passed to serve this purpose (NN 111/97). This Law offers a high level of protection of mentally ill persons. Article 5 prescribes protection of mentally ill persons from any form of abuse or degrading treatment. Article 16 states conditions under which mentally ill persons may be subjected to bio-medical experimentation. Electro-convulsive and hormonal treatment is envisaged only in exceptional circumstances, while psycho-surgery and castration are forbidden (Article 15).

Corporal Punishment

137. The Croatian law forbids corporal punishment in schools. Abuse of children constituted criminal offense according to the old Criminal Code of the Republic of Croatia, and still does according to the new Criminal Code. Its Article 213, Paragraph 2 sanctions criminal offense of abuse of a child or a minor.

YEAR	Neglecting and abuse of a minor	NUMBER
1994	REPORTED	102
	INDICTED	48
	CONVICTED	33
1995	REPORTED	103
	INDICTED	74
	CONVICTED	44
1996	REPORTED	155
	INDICTED	67
	CONVICTED	49
1997	REPORTED	183
	INDICTED	105
	CONVICTED	66
1998	REPORTED	270
	INDICTED	116
	REPORTED	171

Sterilization

138. In the Republic of Croatia, the sterilization procedure is regulated in the Law on Health Care Measures for the Exercise of the Right to Free Decision on Giving Birth to Children (NN 18/78). According to this Law, sterilization may be carried out only upon the request of the person who wants to be sterilized and only after his or her 35th birthday. Regarding the person who does not have legal capacity, the application is filed by his or her parents or guardians, subject to the consent from the state guardianship authority.

Scientific Experiments

139. According to the provisions of the Law on Medications and Medical Products (NN 124/97), the Ministry of Health gives consent for clinical testing of a medication. Clinical testing establishes efficiency and tolerability of a medication, including side effects, bio equivalency and bio availability of the medication.

140. In the period from January 1, 1994 to December 31, 1998, 180 consents for clinical tests were granted, namely:

in 1994 - 28 consents
in 1995 - 21 consents
in 1996 - 29 consents
in 1997 - 50 consents
in 1998 - 52 consents

ARTICLE 8

141. **Slavery and similar relation.** The Constitution of the Republic of Croatia prescribes in its Article 22 the following: "Freedom and personality of everyone shall be inviolable. No one shall be deprived of liberty, nor may his or her liberty be restricted, except upon a court decision in accordance with law."

142. This incrimination is contained, as a *sui generis* crime in Chapter XIII of the Criminal Code ("Criminal offenses against values protected by international law").

143. The basic form of this criminal offense is sanctioned in Article 175 of the said law which prescribes the following acts as alternative commissions of the crime:

- placing another in slavery,
- placing another in slavery or in a status similar to slavery,
- keeping another in slavery or in a status similar to slavery, buying, selling, handing over to another person, mediation in the purchase, sale or handing over of such a person,
- inducing someone else to sell his or her freedom or the freedom of the person he/she provides for or takes care of.

144 The second basic form of this crime is set forth by Paragraph 3 of the same Article which incriminates transportation of persons placed in slavery from one country to another. Furthermore, in Paragraph 2 the legislator regulates the aggravated form of this crime, i.e. the case where the crime is committed against a minor. This provision at the same time incriminates the sale of children for the purpose of adoption, exploitation of labor of minors, transplantation of organs, as well as other forms of sale.

145. The crime specified by Article 175 of the Criminal Code pre-supposes intentional responsibility, and an indirect intent is sufficient.

146. In addition to this, Chapter XIII, Art. 178 of the PC also envisages criminal offense of international prostitution.

147. Article 178 reads as follows:

"(1) Whoever allures, recruits or incites another person to offer sexual services for profit within a state excluding the one in which such a person has residence or of which he/she is a citizen, shall be punished by imprisonment for three months to three years.

(2) Whoever, by force or threat to use force or deceit coerces or incites another person to go to the state in which he/she has no residence or of which he/she is not a citizen, for the purpose of offering sexual services upon payment,

shall be punished by imprisonment for six months to five years.

(3) If the criminal offense referred to in Paragraphs 1 and 2 of this Article is committed against a child or a minor,

the perpetrator shall be punished by imprisonment for one to ten years.

(4) The fact whether the person allured, recruited, incited, forced or deceived into prostitution has already been involved in prostitution is of no relevance for the existence of a criminal offense.

Number of these crimes registered over the analyzed period is the following

CRIME	PERPETRATOR	1994	1995	1996	1997	1998
ENSLAVEMENT AND TRANSPORTATION OF SLAVES	REPORTED	-	-	1	-	1
	INDICTED	-	-	-	1	-
	CONVICTED	-	-	-	-	-
INTERNATIONAL PROSTITUTION	REPORTED	18	11	12	6	10
	INDICTED	4	6	18	5	6
	CONVICTED	3	4	11	2	1

148. Article 23, Paragraph 2 of the Constitution of the Republic of Croatia specifies:

"Forced and compulsory labor shall be forbidden."

149. Rights and liberties regulated by this Article in the territory of the Republic of Croatia are regulated by the following legal instruments:

- Labor Law (NN 38/95, 54/95 and 65/95)
- Criminal Code of the Republic of Croatia (NN 110/97)
- Law on Execution of Sanctions Pronounced for Crimes, Commercial Offenses and Petty Offenses (NN 21/94, 39/74, 55/88, 19/90, 26/93 and 66/93)
- Law on Defense - consolidated text (NN 74/93 and 57/96)
- Decree on the Execution of the Duty to Work (NN 11/94 and 101/95)
- Regulation on Compensation for Work of Convicted Persons (NN 36/75)
- Act on Provision of Funds, Exercise of Rights and Methods of Payment of Minimum Wage to Individuals and Legal Persons (NN 109/93)

150. International treaties regulating this subject matter are the following:

- Convention on Prohibition of Forced and Compulsory Labor (No. 29) of the International Labor Organization

- Convention on Abolishment of Forced Labor (No. 105) of the International Labor Organization
- International Covenant on Civil and Political Rights (Art. 8, Pt. 3)
- Universal Declaration of Human Rights (Art. 23)
- International Convention on Elimination of All Forms of Racial Discrimination (Art. 5i.)

151. This subject matter is also regulated by the European Convention on the Protection of Human Rights and Fundamental Freedoms.

152. Constitutional provision specifying that no one shall be subjected to forced or compulsory labor must not be interpreted in a sense which would exclude execution of sanctions involving forced labor subject to a conviction by a court vested with proper jurisdiction, in countries where deprivation of liberty accompanied with forced labor can be pronounced as a sanction for certain crimes.

153. Furthermore, the following shall not be considered "forced or compulsory labor" within the meaning of this provision:

(i) any labor or service not mentioned ad (b) which is regularly required to be performed by persons incarcerated pursuant to a legal decision of a court, or by a person in respect of which such a decision is issued, and the person is paroled;

(ii) any service of military nature, and in countries where refusal to serve military service on basis of conscientious objection is permissible, any civil service prescribed by law, required from persons objecting to military service;

(iii) any service that is required in case of an act of God or an emergency which endangers the life or welfare of the community;

(iv) any labor or service that is a part of regular civil duties.

154. The Republic of Croatia has notified succession to the Convention No. 29 on Prohibition of Forced and Compulsory Labor of the International Labor Organization, and thus became its party as of October 8, 1991.

155. By proclaiming that liberty, social justice and respect for human rights are the highest values of the constitutional order, the Constitution of the Republic of Croatia sets forth in its Article 54 that everyone shall have the right to work and to freedom of work, as well as that everyone shall be free to choose his or her vocation and occupation. All work places and duties shall be accessible to everyone under the same conditions. Therefore, Article 23 of the Constitution prohibits forced and compulsory labor.

156. Protection of a person and a citizen of the Republic of Croatia and his or her fundamental rights is the basis for the enforcement of criminal law, as specified by Article 1 of the Criminal Code. Only the Croatian Parliament acting by two-thirds majority of all representatives, and exclusively at time of war or immediate threat to the independence and unity of the state, can decide to restrict individual rights and liberties guaranteed by the Constitution.

157. In a free and democratic state, such as the Republic of Croatia, where labor relations are regulated by law, where employment commences by a labor contract, where parties (employer and employee) regulate their rights and obligations autonomously, any forced or compulsory labor is not possible.

158. Labor or services required pursuant to the Law on Compulsory Military Service for works of pure military nature, as well as any labor or services required in the case of an act of God, or in the case of war, emergency or threat of an emergency, are not considered forced or compulsory labor. In accordance with this, The Law on Defense of the Republic of Croatia specifies in its Article 5 that every citizen of the Republic of Croatia has an obligation to protect and defend independence and territorial integrity of the Republic of Croatia, and in respect of this has, in particular: duty to serve military service, duty to perform work, duty to take part in civil defense and an obligation to take part in monitoring and alerting services.

159. All capable citizens have military duty, and all men from age 18 to age of 27 have a duty to serve military service during the period of 10 months, as a part of their military duty. Persons serving in military forces of the Republic of Croatia can in extraordinary circumstances and in the case of natural disasters and other accidents, perform certain tasks if the units of civil protection and other forces can not remove the danger threatening to the population due to disaster or accident, and can take part in the removal of the consequences of such disasters or accidents.

160. The duty to perform work is regulated by Article 6 of the said Act and is applicable in the case of war and immediate threat to the independence and unity of the Republic of Croatia. In such a case all able citizens over 15 years who are not assigned to the armed forces shall have a duty to perform work. The duty to perform work is exercised with state authorities of public administration and legal persons, as well as by performing *ad hoc* works for the needs of armed forces or the defense of the country. Persons older then 55 and pregnant women do not have the duty to perform work.

161. Mothers and single parents who have one or more children under age of 10 can be allocated to perform their duty outside of the place of their permanent residence only in war, and only in the case that care for their children is provided for.

162. Since the Republic of Croatia was attacked, and since defensive war operations took place on the part of its territory, and due to a large number of refugees, Croatian citizens and refugees from other parts of the former SFRY, a Regulation on Nullity of certain Provisions of the Regulation on Labor Relations, Employment, Social Care, Pension and Disability Insurance, Child's Supplement and Protection of Victims in Case of War or Immediate Threat to Independence and Unity of the Republic of Croatia (NN 80/92) was enacted. It provided that all unemployed workers who are entitled to unemployment cash benefit have an obligation to be active in socially beneficial work, especially in taking care of refugees, and in other defensive activities, as the Director of the Employment Agency or the Chief of a Regional Employment Service may order. In case of non-compliance, the cash benefit would be withheld.

163. Workers employed with organizations or with individual employers, self employed persons and individual farmers who are not able to perform their economic activities due to consequences caused by the Homeland War shall not have their employment terminated as long as such

circumstances exist. The Republic of Croatia has allocated funds in the State Budget for the payment of minimum wages to these categories of workers. Article 11 of the Act on Provision of Funds, Exercise of Rights and Methods of Payment of Minimum Wages and Compensations to Certain Individuals and Legal Persons (NN 109/93) sets forth that these beneficiaries have the obligation to work with another organization or with another employer subject to a directive of the Employment agency to such effect, or subject to a request of a County Government or the City Government of the City of Zagreb, if they are subject to a duty to work. If a beneficiary refuses to work according to this provision, his or her right to receive salary pursuant to the mentioned law shall be terminated.

164. Persons allocated to fulfill their duty to work in this way shall receive the same salary, and shall be entitled to the same employment rights as other employed persons.

165. The duty to take part in Civil Defense is laid down by Article 10 of the Law. It is mandatory for all citizens between age 18 and 60 (men), 18 and 50 (women) who are able to work, with the exception of pregnant women and single parents who have one child under seven, or two and more children under ten years of age. Exceptionally, in the case of war, mothers who are qualified medical doctors, engineers, technicians and other professionals in demand, who have children older than one year, can be allocated to Civil Defense, if necessary, if care for their children is provided for during their service. The same requirements are set for an obligation to take part in the Monitoring and Alerting Service.

166. The work or services required from individuals as a consequence of judicial conviction are not considered forced or compulsory labor.

167. The labor of persons convicted to a prison sentence and to a prison sentence for minors is regulated by the Law on the Execution of Penal and Petty Offense Sanctions, and by the Rules on the Compensation for the Work of Convicted Persons.

168. The Minister of Justice is responsible for the supervision over the application of regulations applicable to the execution of sentences, including regulations applicable to the work of convicted persons. He or she directly monitors and receives reports on the issue, and is entitled to establish an Expert Committee for this purpose. The Law on the Execution of Penal and Petty Offense Sanctions provides that convicted persons should be encouraged to develop a sense of personal responsibility for their deeds, and encouraged to voluntarily participate in their correction. For this purpose convicted persons may participate in the organization of certain activities and affairs of common interest.

169. The type of the work to be performed by such persons is determined according to their physical and mental abilities, in accordance with the facilities existing in correctional institutions, and in accordance with the needs of discipline. Within this framework, a desire of inmates to work on a particular job is taken into account. Working hours of convicted persons are the same as the working hours of all other workers, with the maximum of 42 hours per week, and a minimum of at least 8 hours of continuous rest within 24 hours, and one day of rest per week. Convicted persons receive compensation for their work, and the amount of compensation is set forth by the Rules on Compensations for Work of Convicted Persons.

170. Convicted persons are entitled to free medical care and other social insurance rights in case of an occupational injury or a professional disease.

171. The work of convicted persons has to be useful and has to correspond to contemporary performance of the same work in freedom. Its purpose is to make convicted persons acquire, maintain and enhance their working abilities, working habits and expert knowledge. For this purpose the convicted persons are assigned to various jobs and their wishes to work on a particular assignment are taken into account.

172. The work of convicted persons must not be profitable in a manner which would be detrimental to the purpose of that work as stated above.

173. The work of convicted persons in correctional institutions is organized in economic units and at working sites organized outside of the correctional institutions.

174. For the work outside correctional institution it is necessary to obtain the consent of convicted person and approval of the Ministry of Justice. In such a case correctional institutions and organizations shall enter into agreement specifying rights and obligations of convicted persons.

175. The compensation that convicted persons receive for their work outside correctional institution depends on the working place, qualifications and effects of the work.

176. The compensation for a planned effect shall amount to 1/4 of the determined base. The base shall be the basic minimum wage paid in the preceding trimester.

177. If the effects of work exceed the planned effect, convicted persons shall receive 1/3 of the base. In any case, the compensation must not be lower than 1/5 of the base.

178. Convicted persons who work extra hours shall receive full amount of compensation.

179. As presented above, the Constitution of the Republic of Croatia prohibits forced or compulsory labor. This is a guarantee of fundamental liberties and personal rights of a person and a citizen. Namely, Article 20 of the Constitution sets forth: "Anyone who violates the provisions of this Constitution concerning the fundamental freedoms and human rights shall be held personally responsible and may not be exculpated by invoking a superior order."

180. Apart from Article 128 of the Criminal Code specifying the criminal offense of coercion, Croatian penal legislation does not envisage specific criminal offense that would prohibit illegal use of forced or compulsory labor. Article 158 of the Criminal Code specifies a war crime against civilian population committed by any person who in violation of the rules of international law, at a time of war, armed conflict or occupation, orders civilian population to be forced to work in compulsive labor, and he or she shall be punished by imprisonment for not less than five years.

181. Sanctioning of the duty to work is the same as the sanctioning of the implementation of labor legislation.

182. The Republic of Croatia notified its accession to the Convention No. 87 and No. 98 of the International Labor Organization on Freedom of Association and Protection of Freedom of Association and Collective Bargaining, and became party thereof. Croatia is also a party to the Convention No. 135 on the Protection of Labor Representatives.

183. Pursuant to Article 134 of the Constitution of the Republic of Croatia, international agreements concluded and ratified in accordance with the Constitution, made public and in force, shall be part of the domestic legal order of the Republic of Croatia and shall have legal force superior to law.

184. Thus, these Conventions of the International Labor Organization regulating fundamental human rights, are a part of internal law of the Republic of Croatia, and in the case when laws are contrary to them, they have higher legal force and may be directly implemented. The same is true regarding the International Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural rights. Article 8 of the latter regulates more precisely the establishment of trade unions and freedom to join trade unions, as well as the right to strike. Croatian labor legislation is completely harmonized with all international instruments to which the Republic of Croatia is party, and which regulate freedom of association.

ARTICLE 9

185. Article 22 of the Constitution of the Republic of Croatia sets forth the right to liberty and personal security as a fundamental principle.

186. Freedom and personality of everyone shall be inviolable.

187. No one shall be deprived of liberty, nor may his or her liberty be restricted, except upon a court decision in accordance with law.

188. Deprivation of liberty is regulated by the **Law on Criminal Procedure** (NN 110/97), particularly by the following articles which regulate deprivation of liberty and limitation of leberty by forced bringing in:

Article 94, Paragraph 1

Anyone may prevent the flight of the person who is in the act of committing a criminal offense subject to public prosecution.

Article 95, Paragraph 1

The police authorities are entitled to arrest the person against whom they execute the ruling to bring in or the ruling on custody.

Article 96, Paragraphs 1, 2 and 5

The arrested person must be immediately informed of the reasons for arrest unless due to the circumstances of the arrest this is not possible at all.

In the event of arrest only the force absolutely necessary to effect the arrest may be used and the consequences of such a force must be proportionate to the gravity of the offense.

The police authorities shall be bound to inform the family of the arrested person within 24 hours of the arrest, except if he or she is opposed to it. The competent authority of the social care shall be informed of the arrest if it is necessary to undertake measures of taking care of the children and other family members of the arrested person he or she is bound to maintain.

Article 97, Paragraph 1

The police authorities shall bring the arrested person immediately, and at the latest within 24 hours from the moment of arrest to the investigating judge or release him or her. The delay must be expressly explained.

Article 99, Paragraph 2

The arrested person has the right to take an appeal from the ruling on preliminary detention for the whole duration of the detention. Immediately upon the receipt of the appeal the panel from Article 20 Paragraph 2 of this Act shall decide on it. The appeal shall not stall the execution of the ruling on preliminary detention.

Article 103

Custody shall be ordered by written ruling issued by judicial authority having jurisdiction.

An appeal from the decision on custody or extension of custody is regulated by Article 110 of the Law on Criminal Procedure. The panel which decides the appeal decide within 48 hours.

Article 91, Paragraph 1

The defendant who shall be or has already been kept in custody because of the danger of flight, may remain at large or may be released, provided that he or she personally or that another person for him or her gives bail guaranteeing that he or she shall not abscond until the conclusion of criminal proceedings and with further *proviso* that the defendant personally promises that he or she shall not hide or change his or her place of residence without permission.

189. In addition to arrest subject to an arrest warrant, the Law on Criminal Procedure also regulates arrest as one of police measures during inquiries of criminal offenses (Articles 177 to 183). If there are grounds for suspicion that a criminal offense subject to public prosecution has been committed, the police authorities shall be bound to take necessary measures aimed at:

- discovering the perpetrator,
- preventing the perpetrator or accomplice from fleeing or going into hiding,
- discovering and securing traces of the offense and objects of evidentiary value,
- gathering all information which could be useful for conducting successful criminal proceedings.

190. Article 177, Paragraph 2 specifies that an official note should be made about the facts and circumstances which were determined on the occasion of undertaking of individual acts, and which may be of interest for criminal proceedings.

191. Police authorities may summon citizens. The summons must indicate the reason for calling a citizen. A person who did not respond to the summons can be forcefully brought in only if he or she was warned about this in the summons, or if the circumstances clearly show that he or she is refusing to receive the summons. The person who responded to the summons and came or who was forcefully brought in and who declines to give information, may not be summoned again for the same reason. (Paragraph 3, Article 177).

192. The information may also be collected from the persons in custody provided that upon the written motion the investigating judge or the president of the panel granted his or her permission and only in the presence of the investigating judge or the defense counsel chosen by the persons in custody (Article 177, Paragraph 4 of the Law on Criminal Procedure).

193. Upon the request of the suspect, the police authorities shall allow him or her to retain the defense counsel and for that purpose they shall cease collecting information from the suspect or undertaking the search of dwelling until a defense counsel appears or at the latest two hours from the moment when the suspect was able to retain a defense counsel. If the circumstances indicate that a chosen defense counsel will not be able to come within this term, the police authorities shall allow the suspect to retain defense counsel from the ranks of the Bar who are on the list of the attorneys on duty which is made by the Croatian Bar Association and delivered to the competent police administrations, together with the report made for the county court. (Article 177, Paragraph 5 of the Law on Criminal Procedure).

194. On the basis of the information collected the police authorities shall draw up a crime report stating the evidence discovered. The contents of the statements given by certain citizens in the course of collecting information shall not be included in the crime report (Article 177, Paragraph 6).

Judicial Practice

195. Official notes, records and other materials of police authorities (such as request for medical examination, taking blood, taking urine, request for establishment of the decree of alcohol intoxication which contains a statement of a suspect that he or she did or did not drink alcohol after the traffic accident) which contain information given to such authorities by citizens (later on accused and witnesses) in the course of performance of their duties specified in Article 142 of the Law on Criminal Procedure may not be used as evidence before a court (Decision of the Supreme Court of the Republic of Croatia 384/1944 of September 13, 1995).

Note: Article 142 of the LCP mentioned in the decision of the Supreme Court is identical to Article 177 of the new LCP.

196. Article 178 of the LCP:

"The police authorities are entitled to send persons found at the scene of the crime to the investigating judge or to hold them until his or her arrival, if these persons may disclose important facts for the proceedings and if it appears likely that their examination at a later point might be impossible or might entail considerable delays or other difficulties. Such persons shall not be held at the place of commission of a criminal offense for more than six hours."

197. As far as urgent investigative actions are concerned, when delay might be harmful, the police authorities may carry out an on-sight investigation and order necessary expert witness examination on their own, with the exception of autopsies and exhumations. The investigating judge who arrives at the place of the on-sight investigation while it is being carried out may take over the conducting of this action. (Article 184, Paragraph 2).

198. The police authorities shall notify the State Attorney of all actions which they undertook according to Paragraphs 1 and 2 of this Article (Article 184, Paragraph 3).

199. The duration of detention is regulated by Article 106, Paragraph 1, and Article 109, Paragraph 1 of the Law on Criminal Procedure.

" Custody ordered by the ruling of the investigating judge may last at the longest one month from the day the detainee was deprived of his or her liberty"

"In any case, the whole duration of custody may not be longer than:

1) six months if the offense is punishable by imprisonment for a term of less than three years;

2) one year if the offense is punishable by imprisonment for a term of less than five years;

3) one year and six months if the offense is punishable by imprisonment for a term of less than eight years;

4) two years if the offense is punishable by imprisonment for a term of more than eight years;

5) two years and six months if the offense is punishable by long-term imprisonment.

200. On the motion of the State's Attorney, after the first instance judgement was vacated upon a judicial remedy, the panel of the Supreme Court of the Republic of Croatia may, if important reasons exist, prolong the terms of custody from Paragraph 1 of this Article for the maximum of additional six months. The terms from Paragraph 1 of this Article may be prolonged only once.

201. In addition to instances specified in the Law on Criminal Procedure, liberty can be restricted pursuant to Article 248 of the **Law on Civil Procedure**, as a procedural sanction to a renitent witness in civil procedure, and pursuant to Article 16 of the Law on Civil Procedure.

202. Article 248, Paragraphs 2 and 6 of the Law on Civil Procedure reads as follows:

"If a witness appears before the court, and after having been warned about consequences of such behavior, refuses to testify or refuses to answer a particular question, and the court determines that the reasons for refusal are not justified, the court can impose a fine of 200 kunas; if after this the witness refuses to testify, the court may order the witness to be imprisoned. The witness shall remain in custody as long as he or she refuses to testify, or if his or her testimony becomes irrelevant, but not longer than one month.

Military persons and members of police may not be imprisoned, but their command shall be informed about their refusal to testify, for the purpose of punishment. If such persons have to be brought before the court by force for the purpose of giving testimony, the court shall address their commanding officer who shall order that they be brought before the court."

203. Articles 76 and 77 of the **Law on Misdemeanors** prescribe when a person, summoned as a witness or an expert witness, may be imprisoned when he or she fails to come before the court when summoned.

204. Article 77, Paragraph 3 of the Law on Misdemeanors reads as follows:

"The court shall indicate in the summons to witnesses and expert witnesses that the summoned person has a duty to appear before the court, and that in the case of unjustified failure to appear, they shall be brought to the court by force. When an injured person is summoned as a witness, this must be indicated in the summons."

205. Article 77, Paragraphs 5, 6 and 7 of the Law on Misdemeanors reads as follows:

"The use of force for the purpose of bringing a person before the court shall be ordered by a written order. The order must include the name of the person to be brought to the court, and reasons for his or her bringing. The order must be certified by the official seal and signature of the misdemeanor judge who had ordered the bringing to the court.

Police officers and other official persons authorized to bring a person before the court may do that even without the judicial order if such person was found committing a misdemeanor, if his or her identity can not be established, or if he or she does not have permanent residence, as well as in the case when bringing to the court is necessary in order to prevent the continuing of the commission of misdemeanor. In such cases the accused shall be brought before the judge without delay.

If, in the case mentioned in Paragraph 6 of this Article, the perpetrator is found committing a petty offense after regular working hours of the judge, and there is a ground of suspicion that the accused shall run away, or if there is a danger of continued performance of the misdemeanor, the official person authorized for apprehension may detain the accused under his or her custody, as long as it is not possible to bring him or her to the judge, but not longer than 48 hours."

206. Article 16 of the **Civil Execution Act** (NN 57/96) sets forth a prison sentence in Paragraphs 1 and 6

"(1) Where this Act envisages a fine as a means of civil execution or as a lien, the said sanction can be imposed on individuals in amount of 1.000 to 30.000 kunas (Kn), and to legal persons in amount of 10.000 to 100.000 kunas. Prison sentence envisaged by this Law can last from 15 days to 3 months. During the same proceedings the court can deliver more prison sentences for different criminal offenses to the same person, and the sum of sentence in a single civil execution proceedings must not exceed six months.

(6) Court may threaten to impose a fine on legal persons, and a fine or imprisonment on responsible individuals working with a legal person and to other individuals, or may impose a fine on a legal person, as well as to impose a fine or imprisonment on responsible individuals working with legal persons and on other individuals:

1. if they, contrary to an order or prohibition of the court take certain actions in order to conceal, damage or destroy property of persons subject to execution or of the person opposing the security,
2. if they take violent action or action that can severely damage or jeopardize rights, safety and dignity of the executioner and lien officer or of other persons taking part in the execution or lien proceedings,
3. if they, contrary to an order or prohibition of the Court take action that can lead to irreparable or barely reparable damage for the executioner or lien officer,
4. if they take action that interferes with implementation of execution or lien proceedings conducted by the court, by the judicial executioner or by other authorized persons,
5. in other instances prescribed by law."

207. The Law on Criminal Procedure prescribes the **procedure for compensation of damages, rehabilitation and exercise of other rights** of unjustly convicted persons and persons deprived of their liberty without grounds. This subject-matter is regulated by Articles 476 to 480 thereof.

208. In period from January 1, 1994 to December 31, 1997 the Ministry of Justice of the Republic of Croatia received 303 requests for the compensation of damages.

209. The convicted person is not entitled to compensation of damage if he or she deliberately caused his or her conviction by a false confession or otherwise. The compensation of damage shall include compensation of actual damage, lost profit, damaged reputation, publication of appropriate information in the media and recognition of pension qualification period.

210. According to the information from the Ministry of Justice of the Republic of Croatia,

- 69 applications for compensation of damages in 1994,
- 108 applications for compensation of damages in 1995,
- 98 applications for compensation of damages in 1996,
- 173 applications for compensation of damages in 1997,
- 199 applications for compensation of damages in 1998.

211. State Attorney's Office of the Republic of Croatia has informed this Ministry about 76 compensation of cases for compensation of damages which are pending before competent courts.

ARTICLE 10

212. As stated after Article 7, the Republic of Croatia is a party to the Convention Against Torture and Other Inhuman or Degrading Criminal Procedures adopted on December 10, 1984, and to the European Convention on the Prevention of Torture or Inhuman or Degrading Treatment or Punishment of November 26, 1987. In accordance with all the measures undertaken in the course of implementation of the International Covenant on Civil and Political Rights and of other relevant instruments as well, the Ministry of Interior and the Ministry of Justice take care of implementation of State policy in respect of undertaken obligations.

213. The Ministry of Interior accepts the necessity of transformation of its entire system. Accordingly, by applying the Internal Affairs Act (NN 73/91, 19/92 and 33/92 - consolidated text) it has already established certain protective democratic mechanisms, specifying that state officials and employees of the Ministry have the obligation to protect and care about life and dignity of persons, and that they can apply only those measures of coercion that are envisaged by law. This resulted in the performance of their official duty with as little harmful consequences as possible. They have an obligation to proceed in a humane way, and with respect of natural dignity of human being. This shows that police proceeds without any discrimination and implements national regulations implementing international conventions and resolutions protecting personal human and political rights of Croatian and foreign nationals. This eliminates every possibility of legalizing discretionary actions and circumventing the said conventions, resolutions and the laws of the Republic of Croatia. At the same time, the law guarantees inviolability of human dignity and human rights, and imposes limits to police procedures.

214. Although Croatian police, in the same way as the police in other modern states, has an important protective function, its authority has to be subject to restraints in every respect, so that they do not come in conflict with other values, and especially not with fundamental human rights and liberties of citizens.

215. Article 10 of the International Covenant is implemented to Croatian legislation in the following way:

216. Every prisoner in custody of Croatian authorities, regardless of whether he or she is held in a detention facility, correctional institution or in a facility for the prisoners of war, has an opportunity to be registered and to receive visits of the ICRC, several times a month. (Subject to consent of the Ministry of Justice, the representatives of the ICRC and the PMEZ are allowed, upon their request, to visit prisoners, in order to get informed about the conditions of their accommodation). In its reports the ICRC gave positive evaluations about the conditions of

accommodation, food and treatment of prisoners under custody of the Republic of Croatia. It has to be mentioned that since the establishment of the Commission, there have been no objections regarding the treatment and accommodation of arrested persons related to armed conflicts, nor objections concerning violations of human rights of this category of persons. (Appendix 7, ICRC Report on Visit to the Zagreb County Prison).

217. Immediately following the actions "Flash" and "Storm" the ICRC delegates were permitted access to and registration of all persons which were accommodated in temporary accommodation centers (persons capable for military service), as well as access to and registration of wounded members of enemy paramilitary units.

218. The Commission for Captured and Missing Persons organized the first transfer of individuals who wanted to leave the territory of the Republic of Croatia and to go to the territory under Bosnian Serb control, after they were released from detention. It also took part in all further transfers organized by the ICRC. (The latest transfer of that kind was carried out on January 11 and 13, 1996 when 312 individuals crossed to the territory of the so-called FRY. Those persons were pardoned by the decision of the President of the Republic of Croatia on December 30, 1995.)

219. The analysis of information shows a significant annual oscillation of the total number of detainees for each analyzed year. These data are directly related to war operations of the Croatian army aimed at the liberation of the occupied state territory, or to decisions of Croatian authorities on amnesty, pardon and exchange of members of enemy units who were arrested subject to the decisions of Croatian courts and detained in county prisons in the Republic of Croatia. This was arranged in order to have Croatian citizens released from enemy imprisonment.

220. In accordance with this, information indicates significant differences in national structure of detained persons, particularly the share of ethnic Serbs. Thus, there was 18,5% share of ethnic Serbian detainees of the total number of detainees in 1992. In 1993 and 1994 that share varied between 5% and 8%, while it rose to 40,35% in 1995, as a consequence of the before mentioned circumstances.

221. The share of Bosniacs, Yugoslavs and detainees of other nationalities over the analyzed period was relatively stable; in average about 10%.

222. During the analyzed period, the number of minors in the total population of detainees was very low - between 2,9% and 4,8%. Junior adults, i.e. persons between the age of 19 and 21 amounted to 7,1% -11,5%.

223. The largest share of detainees in the total population of detainees in Croatia was of ages 22 and above, and in the analyzed period this share varied between 84% and 89,5%.

224. Between 1992 and 1996 the number of women in the overall population of detainees varied from 110 and 124 persons annually, i.e. between 2,5% and 4,3%. Number of men varied between 2608 in 1994 to 4336 in 1995, what made 95,6% to 97,5% of the overall number of detained persons.

225. During 1995 the overall number of convicted persons accommodated in correctional facilities and other institutions was 2265. Out of this number 43 were women, and 126 minors serving their correctional measure.

226. As far as ethnic structure is concerned, there were 8,83% of Serbs, 9,15% of Bosniacs and 1,2% of Yugoslavs in the overall population of convicted persons.

227. The number of convicted persons in 1996 was 2.672. Out of this number 41 were women and 111 minors serving their correctional measure.

228. According to their ethnic structure 10,1% were Serbs, 4,4% Bosniacs and 0,9% Yugoslavs.

229. In 1997 overall number of convicted persons was 1.503. Out of this number 39 were women and 95 minors serving their correctional measure.

230. In the overall population of convicted persons in the same year, according to their ethnic structure, 10,5% were Serbs, 3,4% Bosniacs and 0,6% Yugoslavs.

231. In 1998 overall number of convicted persons was 1.258. Out of this number 41 were women and 61 minors serving their correctional measure.

232. According their ethnic structure 9,62% were Serbs; 3,89% Bosniacs and 1,27% Yugoslavs.

233. The table shows the number of convicted persons as to their sex, age and nationality for 1995, 1996, 1997 and 1998.

NATIONALITY	1995	1996	1997	1998
CROATIANS	1775	2086	1167	976
SLOVENIANS	20	15	8	4
SERBS	200	269	158	121
MUSLIMS	94	119	52	49
ALBANIANS	65	61	46	35
ROMANIES	54	47	34	35
YUGOSLAVS	27	25	10	16
OTHERS	30	50	28	22
TOTAL	2265	2672	1503	1258
WOMEN	43	41	39	41
MINORS	126	111	95	61

MINORS **(as a separate category of perpetrators of criminal offenses)**

234. **Law on Juvenile Courts** was enacted in the Republic of Croatia (NN 111/97) containing substantive criminal law provisions applicable to young perpetrators of criminal offenses (minors and junior adults), provisions regulating courts, criminal procedure and execution of sanctions, as well as criminal protection of children and minors. This law took effect on January 1, 1998. However, minors were treated as a separate category of perpetrators of criminal offenses already by the old Criminal Code of the Republic of Croatia which was applicable until December 31, 1997. This was regulated by Chapter VI thereof.

235. Article 10 of the Criminal Code (NN 110/97) envisages that criminal legislation shall not be applied to a child who, at the time of committing a criminal offense did not reach fourteen years of age.

236. In accordance with the provisions of the Juvenile Courts Act (NN 111/97) a minor is a person who at the time of committing criminal offense reached the age of 14, but did not reach age of 18, whereas junior adult is a person who at the time of committing criminal offense reached the age of 18, but did not reach the age of 21.

237. Sanctions that can be imposed on minors who committed criminal offenses are educational measures, juvenile prison and security measures.

238. Junior minors who at the time of the commission of criminal offense reached the age of 14 but did not reach the age of 16 can be subject to educational measures only.

239. Senior minors (who reached the age of 16 but did not reach the age of 18) can be subject to educational measures, and if requirements prescribed by law are met - juvenile prison.

240. As a part of general purpose of criminal sanctions specified by Article 6 of the Criminal Code, the purpose of educational measures and juvenile prison is to influence upbringing, development of personality and strengthening of personal responsibility of minor perpetrators of crimes by providing them with protection, care, assistance and supervision, as well as by providing them with general and expert education.

241. **Educational measures are the following:**

- admonition
- special obligations
- placement to an educational facility.

The above mentioned educational measures are pronounced where it is necessary to exert influence on minor's personality by giving him or her a warning.

- enhanced care and supervision
- enhanced care and supervision accompanied by day care in an educational facility

The above mentioned measures are usually called measures of enhanced supervision and are pronounced where it is necessary to take more permanent measures accompanied with appropriate expert supervision and assistance, and it is not necessary to isolate a minor from his or her former environment.

- placement in an educational facility (from 6 months to 2 years)
- placement in an educational institution (from 6 months to 3 years)
- placement in a special educational facility (for as long as necessary for the purpose of medical treatment, protection or education, but not longer than 3 years).

The above mentioned measures are called institutional measures and are pronounced where a minor should be subject to more intensive educational measures or measures of medical treatment accompanied with his or her isolation from environment.

In the case of institutional measures, justifiability of further placement of a minor in the facility shall be re-assessed every 6 months .

Juvenile Prison

242. Juvenile prison is a sentence of deprivation of liberty which is specific as to conditions of its pronouncement, length, purpose and substance.

243. It can be pronounced only to senior minors for the offense in respect of which punishment of 5 years of prison sentence or more is envisaged if, considering the nature and severity of the offense and high degree of guilt, sentencing is necessary.

244. Juvenile prison sentence can not be shorter than 6 months nor longer then 5 years and is pronounced in terms of full years and months. However, juvenile prison can last for the maximum of 10 years for crimes in respect of which long term imprisonment is envisaged, or for concurrence of at least 2 offenses in respect of which imprisonment of more than 10 years is envisaged.

245. Juvenile prison sentence can not be pronounced for a longer term than the punishment envisaged for the same criminal offense, but the court is not bound by the minimum sentence for the said criminal offense.

246. A minor who served at least one third of his or her sentence can be paroled, but not before having spent 6 months in a correctional institution.

247. A pronouncement of a juvenile prison sentence can be suspended. In such a case the court shall declare the minor guilty for the criminal offense and suspend pronouncement of prison sentence if it is satisfied that pronouncement of guilt and threat of later pronouncement of punishment would divert perpetrator from further commission of criminal offenses.

Statute of Limitations regarding the execution of juvenile prison sentence (Article 29)

248. Juvenile prison sentence may not be executed following the expiration of:

- five years after decision pronouncing juvenile prison sentence for more than five years become final;

- three years after decision pronouncing juvenile prison sentence for more than three years become final;

- two years after decision pronouncing juvenile prison sentence for less than three years become final.

Security measures

249. In addition to the educational measure or juvenile prison sentence the following security measures can be ordered in respect of a minor: mandatory psychiatric treatment, mandatory treatment of addiction, expulsion of a foreign citizen from country and seizure of objects. Senior minors can be prohibited to drive a motor vehicle.

Junior adults

250. The following measures can be ordered in respect of a junior adult: special obligations, educational measure of enhanced supervision and a juvenile prison sentence. Institutional educational measures can be ordered if the perpetrator did not complete 21 years of age at the time of trial.

251. A court can pronounce prison sentence instead of juvenile prison sentence to a junior adult perpetrator who completed 21 years of age at the time of trial.

252. If the perpetrator has completed 23 years of age at time of trial, the court shall pronounce prison sentence instead of juvenile prison sentence.

253. In the case of educational measures and juvenile prison sentence pronounced to junior adults, the court can order security measures subject to the same conditions as regarding minors.

SANCTIONS PRONOUNCED TO MINORS IN PERIOD BETWEEN 1994 AND 1998

TYPE OF SANCTIONS	1994	1995	1996	1997	1998
DISCIPLINARY MEASURES	532	366	276	234	*
ENHANCED SUPERVISION MEASURES	566	415	307	300	383
INSTITUTIONAL MEASURES	139	118	97	110	61
JUVENILE PRISON	9	7	6	9	18

* According to Law on Juvenile courts (which entered into force 1.1.1998.) disciplinary measures are not anticipated.

Contacts with Family

254. Pursuant to Article 152 of the Law on Execution of Sanctions Pronounced for Criminal Offenses, Commercial Offenses and Petty Offenses, convicted persons are entitled to receive visits by their close family members. Subject to a permission of a director or manager of a penal authority or authority performing supervision of penal authorities, they can receive visits by other persons. In the case of persons under detention, the decision shall be made by the investigating authority, or by the president of a panel, in accordance with Article 193 of the Law on Criminal Procedure.

255. A denial of this right is exceptional and very rare in practice. It can follow as a result of an evident abuse of visitors by the incarcerated person, or vice versa. The most common instance is the abuse of a visit for the commission of some illegal act, or for the purpose of obstructing order and discipline of penal authority. In such instances, supervision body vested with jurisdiction can temporarily restrict visits of close family members, but not on permanent basis. Restriction of contacts with minor children is not possible.

256. Law specifies minimum length of visits. A visit may not be shorter than one hour, and it is permitted every week.

257. Prison management may permit visits of close family members even at the time that was not envisaged by their rules if the visit can not be made within that time.

258. In addition to direct contact convicts can maintain contact with their family by phone and by mail. In correctional institutions convicts can be permitted to have contact with their marital partner even without supervision. For this purpose special rooms, decorated in appropriate way, are arranged. Such rooms make a humane and dignified space in terms of their contents and look. This kind of visits is not a right of a convicted person, but a privilege to be granted by the management of a penal authority.

259. During 1994 and 1995 there were approximately ten instances of short term temporary denial of the right to contact family in penal institutions of the Republic of Croatia. The reasons were the assaults against the official persons during visits, execution of disciplinary measure of solitary confinement pronounced on grounds of the abuse of the privilege of contact without supervision, and on the grounds of bringing alcoholic beverages to a correctional institution by visitors. In 1996, 1997 and 1998 there were instances of denial of the right to contact with family on similar grounds. However, number of such denials did not change significantly as compared to the preceding period.

ARTICLE 11

260. Article 11 of the Covenant is implemented in the Republic of Croatia in such a way that civil codes, i.e. The Law of Obligations and the Law on Ownership and Other Property Rights do not envisage prison sentences. Deprivation of liberty is envisaged only for the crimes and for criminal responsibility. In this way Article 11 is implemented both in Croatian legislation and in practice.

261. However, certain criminal offenses are not prescribed by the Criminal Code, but by specific legislation. For example, Article 107 of the Bankruptcy Act (NN 44/96) envisages compulsory

bringing in of a debtor in case that he or she did not respond to summons (order to appear at certain place at certain time). This Act also envisages compulsory bringing in for non-compliance with judicial orders, particularly in case of a refusal to perform judicial order to give necessary information and to co-operate with the court, in case of preparation of escape in breach of judicial order, or in case of acts directed to avoidance of rendering information and co-operation, as well as in case of behavior that could disable or render impossible collection of necessary documents and information, especially for the purpose of protection of debtors assets subject to bankruptcy proceedings.

262. Also, both the Law on Civil Procedure and the Law on Misdemeanors prescribe a procedural punishment to a witness and an expert witness if he or she does not answer the summons issued by the court (see ad Article 9 of the Covenant).

263. Article 16, Paragraph 6 of the Civil Execution Act (NN 57/96) prescribes that a court may conduct the procedure to sentence responsible person of a legal person or an individual to imprisonment of 15 days to three months, but not more than to 6 months within a single execution procedure: a) if he or she, in breach of an order or a prohibition of the Court, takes certain action in order to hide, damage or destroy certain property; in breech of an order or a prohibition of the court takes certain action that could cause irreparable damage to the execution officer or to the person who instituted the execution proceedings.

264. Having in mind that these laws have been in effect only a very short period of time, there is no statistical information referring to these restrictions and deprivations of liberty.

ARTICLE 12

265. Article 32, Paragraph 1 of the Constitution of the Republic of Croatia incorporates Article 12, Paragraph 1 of the Covenant: "Anyone lawfully within the territory of the Republic of Croatia shall have the right to liberty of movement and freedom to choose his or her residence." and Article 12, Paragraph 3 of the Covenant: "The liberty of movement within the Republic of Croatia and the right to enter or leave it may exceptionally be restricted by law, if it this is necessary to protect public order or health, or the right and freedoms of others."

266. Permanent residence and temporary residence of Croatian citizens is regulated by the **Law on Permanent and Temporary Residence of Citizens** (NN 53/91, 26/93 and 29/94). Pursuant to the provisions of the said law, each Croatian citizen who finds himself or herself in the territory of the Republic of Croatia shall have permanent residence in the Republic of Croatia, and may have temporary residence in the Republic of Croatia too.

267. The records of registrations and cancellations of permanent and temporary residence, and of changes of address shall be kept with police authorities/police precincts, i.e. by the Ministry of Interior of the Republic of Croatia.

268. Registered permanent residence serves as the basis for the exercise of different individual rights before these or other authorities. However, it also serves as a source of certain obligations.

269. Article 6 of the Law specifies that citizens have an obligation to register and to cancel their permanent residence, to register habitual temporary residence, and to register the change of address.

270. Article 8 sets forth the 8 day deadline for registration or cancellation of permanent residence or change of address.

271. Pursuant to Article 32 of the Constitution of the Republic of Croatia, each Croatian citizen has the right to move freely in the territory of the Republic of Croatia, and to choose temporary residence. At the same time, each citizen has the right to leave the State territory at any time, or to settle, permanently or temporarily abroad.

272. Croatian citizenship can be acquired pursuant to the **Law on Croatian Citizenship** (NN 53/91 and 28/92), particularly, by origin, by birth in the territory of the Republic of Croatia, by naturalization, and subject to international treaties (Article 3).

273. Croatian citizens are entitled to a passport subject to requirements set forth by the **Law on Croatian Citizens' Passports** (NN 53/91, 64/92, 26/93 and 29/94). Passport is a public document and is an evidence of identity and of Croatian citizenship.

274. When traveling abroad citizens have the obligation to carry their passport with them. The Government of the Republic of Croatia may regulate that passport is not necessary when traveling to certain states, as well as that a visa is required for traveling to certain states.

275. The application for a passport and for a visa can be denied if there is justified suspicion that the applicant:

1. was going to evade criminal proceedings or execution of sentence sentencing him or her to prison sentence longer than 3 months, or a security measure of mandatory psychiatric treatment and care in a medical institution - subject to request of a court vested with jurisdiction;

2. was going to evade a matured civil obligation based on marital relationship or parental relationship, a tax obligation, or any other civil law obligation established by law in respect of which there is an execution title - subject to request of a court vested with jurisdiction;

3. was going to evade military service, or in other instances where reasons envisaged by regulations applicable to military service and service in the armed forces exist - subject to request of military authority vested with jurisdiction.

276. Application for a passport can be denied if:

1. there are grounds of suspicion that the applicant was going to act contrary to regulations applicable to prohibition or restriction of import, export, transport or distribution of drugs, or contrary to customs and foreign trade regulations;
2. it is required by reasons of national security or protection of public order.

277. Application for a visa shall be denied in the case of an epidemic of contagious disease in a country for which the visa was applied for (Article 34 of the Law on Croatian Citizens' Passports). Croatian citizen's application for the issuance of a travel document can not be denied. Namely travel document serves for travel, i.e. for the return of Croatian citizens from abroad to the Republic of Croatia.

278. Pursuant to Article 32, Paragraph 2 of the Constitution of the Republic of Croatia every citizen has the right to return at any time to the Republic of Croatia.

ARTICLE 13

279. The Law on the Movement and Residence of Aliens elaborates in its General Provisions the mentioned provisions of the Covenant. Requirements for entry and residence of aliens to the Republic of Croatia are regulated by Article 2 thereof: "An alien can enter Republic of Croatia and temporarily reside in its territory if he or she is in possession of a valid foreign passport issued by state authorities vested with jurisdiction for issuing passports, and with a valid visa, save where otherwise provided by this Law."

280. Article 3 of the Law sets forth restrictions based on the reasons of the protection of national security, or for the purpose of the protection of public order. "An alien can be prohibited entering the Republic of Croatia, restricted or prohibited to move in certain territory, his or her temporary residence can be canceled, or permanent residence in certain territory prohibited, on the grounds of protection of national security, or if required by reasons of protection of public order."

281. An alien shall have the obligation to report to competent authorities his or her temporary residence and change of address, and to report or cancel permanent residence. Non-compliance with this constitutes a petty offense specified by penal provisions of the Law on Movement and Temporary Residence of Aliens. This can further lead to the application of Article 39 of the Law, i.e. to the cancellation of temporary residence or to protective measure of removal from the territory of the Republic of Croatia, in the petty offense proceedings.

282. The Law provides for an obligation of an alien who was sentenced to a security measure of expulsion or to a security measure of removal, or whose temporary residence was canceled, or who resides in Croatia without permission of an authorized body, to leave the territory of the Republic of Croatia within deadline set forth by an authorized body (Article 65 Paragraph 1 of the Law on the Movement and Temporary Residence of Aliens). Security measure of expulsion of an alien from the

country can be pronounced by a court pursuant to criminal proceedings, if perpetrator was sentenced, either unconditionally, or to a suspended sentence.

283. Security measure of expulsion can extend over period of 1 to 10 years, or for good.

284. Article 65, Paragraphs 2 and 3 of the Law on the Movement and Temporary Residence of Aliens envisages forced removal of an alien from the Republic of Croatia. Police shall escort an alien who did not leave the Republic of Croatia within the prescribed time, and who is in possession of a valid passport, to the state border following the petty offense proceedings, and shall remove him or her from the Republic of Croatia.

Statistical data

285. An alien without a valid passport shall be escorted to the diplomatic or consular service of his or her country in order to obtain a passport. If diplomatic or consular service refuses to issue a passport, the alien shall be issued a travel document and shall be escorted to the state border with a neighboring state, if the person is citizen of this state, or if this state admits him or her. The costs of the escort shall be born by the alien, and if he or she does not have sufficient means, the costs shall be paid from the budget of the Republic of Croatia.

NUMBER OF ALIENS EXPELLED FROM THE REPUBLIC OF CROATIA IN PERIOD BETWEEN 1995 AND 1998

EXPULSIONS IN 1995 PER STATE		
No.	STATE	NUMBER
1.	FRY – ALBANIANS	82
2.	FRY – OTHERS	15
3.	MACEDONIA	9
4.	SLOVENIA	7
5.	BH – BOSNIACS	110
6.	BH – SERBS	50
7.	ITALY	7
8.	ALBANIA	6
9.	AUSTRIA	2
10.	GERMANY	7
11.	FRANCE	2
12.	FORMER USSR	28
13.	ROMANIA	21
14.	POLAND	2
15.	SLOVAKIA	5
16.	CZECH REPUBLIC	3
17.	SPAIN	1
18.	THE NETHERLANDS	1
19.	SWITZERLAND	1
20.	GUINEA	1
21.	ALGERIA	2
22.	TUNIS	3
23.	LEBANON	2
24.	ETHIOPIA	1
25.	JORDAN	1
26.	MOROCCO	1
27.	AUSTRALIA	1
TOTAL		371

FORCED EXPULSIONS OF ALIENS BY STATES IN 1996

No.	Forced expulsions of citizens of the former SFRY	1996
1.	FRY - Albanians	73
2.	FRY - others	14
3.	BH - Muslims	249
4.	BH - Others	33
5.	Slovenia	16
6.	Macedonia	23
No.	Forced expulsions of citizens of other European states	1996
7.	Albania	26
8.	Bulgaria	13
9.	Czech Republic	4
10.	Finland	1
11.	France	1
12.	Greece	1
13.	Italy	13
14.	Hungary	3
15.	Norway	1
16.	The Netherlands	1
17.	Germany	9
18.	Poland	4
19.	Romania	484
20.	Slovakia	2
21.	Turkey	128
No.	Forced expulsions of citizens from the territory of former USSR	1996
22.	Russia	1
23.	Ukraine	38
24.	Belarus	6
25.	Moldova	2
26.	Tajikistan	1

No.	Forced expulsions of citizens from non-European states	1996
27.	Egypt	8
28.	Iraq	1
29.	Iran	1
30.	Morocco	3
31.	China	2
32.	Peru	1
33.	Tanzania	1
34.	Senegal	1
35.	Sri Lanka	5
TOTAL:		1170

FORCED EXPULSIONS OF ALIENS BY STATES IN 1997

No.	Forced expulsion of citizens of the former SFRY	1997
1.	FRY	54
2.	BH	278
3.	Slovenia	19
4.	Macedonia	48
No.	Forced expulsions of citizens of other European states	1997
5.	Albania	25
6.	Bulgaria	42
7.	France	1
8.	Greece	1
9.	Italy	12
10.	Hungary	18
11.	The Netherlands	4
12.	Germany	11
13.	Poland	1
14.	Romania	680
15.	Slovakia	1
16.	Switzerland	1
17.	Austria	2
18.	Turkey	438

No.	Forced expulsions of citizens from the territory of the former USSR	1997
19.	Russia	4
20.	Ukraine	62
21.	Moldova	29
22.	Kazakhstan	1
No.	Forced expulsions of citizens of non-European states	1997
23.	Egypt	41
24.	Iraq	2
25.	Iran	8
26.	Morocco	5
27.	Tanzania	2
28.	Sri Lanka	4
29.	Pakistan	12
30.	Syria	19
31.	Algeria	5
32.	Tunis	29
33.	Bangladesh	14
34.	Burkina Faso	1
35.	Nigeria	5
36.	Liberia	2
TOTAL:		1906

FORCED EXPULSIONS OF ALIENS BY STATES IN 1998

No.	State	Number
1.	BH	789
2.	FRY	587
3.	Slovenia	49
4.	Macedonia	143
5.	Albania	20
6.	Bulgaria	20
7.	Czech Republic	16
8.	Italy	19
9.	Hungary	21
10.	Germany	20
11.	Romania	1329
12.	Turkey	154
13.	Ukraine	18
14.	Other states	193
TOTAL:		3.378

286. The remaining 30% of expelled aliens are those against whom security measure of expulsion was pronounced pursuant to the Criminal Code, as well as the protective measure of removal of an alien from the territory of the Republic of Croatia related to a committed petty offense, or a measure of the denial of temporary residence, pursuant to the Law on the Control of the State Border.

287. If it is not possible to remove an alien in any of the above mentioned ways, the Ministry of Interior of the Republic of Croatia shall designate his or her accommodation in a shelter for aliens, until it is possible to remove them from the Republic of Croatia. Pursuant to Article 11a of the Internal Affairs Act, "a shelter for aliens is established for the purpose of performance of expert and other assignments for the implementation of regulations and international treaties regulating status and rights of aliens and stateless persons. The Shelter shall have the status of a separate department within the Ministry."

288. During the homeland ware, there was an increase in the number of aliens against whom these measures were undertaken. At the same time the Republic of Croatia did not get adequate facilities from the predecessor state for the accommodation of such persons. For this reason temporary residence centers for aliens were established in Dugo Selo, Rijeka and at island Obonjan. An Aliens' Home meeting all necessary standards was established in Split. In addition to this temporary Home for Aliens in Split, a modern shelter for aliens was opened in Ježevo in 1997. At the same time shelters in Dugo Selo and Rijeka were closed. The shelter at island Obonjan was closed in September 1997. The total number of 1,034 foreign citizens (806 men, 164 women and 64 children) were accommodated in Ježevo shelter. Most of them were citizens of Romania (355),Turkey (272) and FR Yugoslavia (101). At the same time, 104 foreign citizens were accommodated in the shelter in Split.

289. An alien who has means for his or her support is granted temporary residence. The Law on the Movement and Temporary Residence of Aliens is the most comprehensive national system of positive law that regulates the issues of movement and temporary residence of aliens. It elaborates issues of passports and visas, entry of aliens to the Republic of Croatia, types of residence of aliens, cancellation and termination of residence, forced removal and shelters for aliens, as well as petty offense sanctions (Articles 74 to 77 of the Law) applicable to the violations of its provisions. In petty offense proceedings first instance petty offense courts decide petty offenses from the Law on the Movement and Temporary Residence of Aliens, while the High Petty Offense Court decides these cases in second instance. An alien can be sentenced (a fine and/or imprisonment) and in addition to this a protective measure can be ordered against him or her (protective measure of removal from the Republic of Croatia until 2 years). Subject to the requirements set forth by the Petty Offenses Act, an alien can be warned instead of imposing a punishment against him or her.

290. In instances envisaged by Articles 39 to 43 of the Law, police authorities, or a police station can, in an administrative procedure, cancel alien's residence. In practice, police authorities or a police station shall not cancel alien's residence without prior procedure before a petty offense judge and following his or her decision on removal from the Republic of Croatia, where conditions specified by Articles 39 to 43 of the Law are met. In this way police authorities defer the first decision to the court. This also results in a better protection of the interest of the party concerned.

291. Article 39 of the Law specifies that temporary residence of an alien shall be admitted or that extended residence or granted business visa shall be canceled if his or her entry was not permissible subject to provisions of this Law, if he or she entered the Republic of Croatia illegally, if he or she did not comply with law or did not comply with decisions of state authorities, and if he or she remains without means for subsistence. An alien who was granted permanent residence shall have his or her residence canceled if he or she had been convicted for a criminal offense against the Republic of Croatia, or for other especially severe or especially undignified criminal offense, or if he or she remained without means for subsistence, or for the reasons of protection of national security or legal order.

292. The first instance decision is to be made by competent police administration or by competent police station. An appeal from such a decision may be submitted to the Commission for Appeals in administrative proceedings of the Ministry of Interior, and, subsequently, a complaint may be submitted to the Administrative Court of the Republic of Croatia. This system provides for three levels of legal protection. In its ruling on the cancellation, the competent body must order a time limit in which the alien must leave the territory of the Republic of Croatia and the time during which he or she may not come again. This measure shall be entered into alien's passport and the alien shall be advised to leave the territory of the Republic of Croatia on his or her own.

293. The jurisdiction of the Ministry of Interior related to the movement and residence of Aliens, including the jurisdiction related to Articles 12 and 13 of the Covenant is reflected in the authority of the Ministry to decide as first instance body, about permanent residence of aliens (Article 30 of the Law on the Movement and Residence of Aliens), as well as about the termination of permanent residence (Article 47 of the same Law). The appeals from first instance decisions made by police administrations or police stations denying application for extension of residence of aliens, canceling residence of aliens, denying applications for issuing identity cards for aliens and business visas, and denying registration of temporary residence of aliens (Article 22, Paragraph 3 of the Internal Affairs Act) are decided by the Appeals Commission in administrative proceedings of the same Ministry. An appeal from the decisions of the said Commission may be filed with the Administrative Court of the Republic of Croatia which shall institute administrative dispute proceedings.

294. Having the above mentioned in mind, any person who believes that his or her freedom of movement and choice or residence as proclaimed by Articles 12 and 13 of the Covenant were violated, can protect his or her rights in the proceedings before body vested with appropriate jurisdiction. Persons alleging violations of human rights, including the rights guaranteed by Articles 12 and 13 of the said Covenant have the constitutional and legal right to file an appeal from a decision that allegedly violated these rights.

295. Extra judicial remedies include the right to file petitions and complaints to an appropriate parliamentary commission. This usually happens regarding the cancellation of residence (Article 13 of the Covenant). The reasons for the cancellations are enumerated in Articles 39 and 42 of the Law on the Movement and Residence of Aliens.

Control of the crossing of state border and protection of state border

296. By establishment of independent and democratic state, the tasks of the control of crossing and protection of the State border have become a part of everyday police activity. This represents a change when compared with the former regime, in which the control of crossing and protection of the State border was in the jurisdiction of the former Yugoslav People's Army. This is a proof of real, not declaratory democracy.

297. In the period between 1995 and 1997 the number of border crossings was constantly increasing. In 1995, the border police registered 74,503,733 crossings, including 50,870 on the border with FR Yugoslavia.

298. In 1996, 85,593,047 crossings of the State border were registered, including 296,197 on the border with FR Yugoslavia.

299. In 1997, 96,946,102 crossings of the State border were registered, including 883,531 on the border with FR Yugoslavia.

300. In 1998, 101.369.834 crossings of the State border were registered, including 3.953.901 on the border with FR Yugoslavia.

ARTICLE 14

301. Equal protection before courts is regulated by Article 26 of the Constitution.

302. All citizens and aliens shall be equal before the courts, governmental agencies and other bodies vested with public authority.

303. The organization of judicial power in the Republic of Croatia is regulated in the Constitution, namely in Articles 115-121 thereof.

304. In the Republic of Croatia, judicial power shall be exercised by courts. Judicial power shall be autonomous and independent. Courts shall administer justice according to the Constitution and law.

305. The Supreme Court of the Republic of Croatia, as the highest court, shall ensure uniform application of laws and equal justice to all.

306. The establishment of jurisdiction, composition and organization of courts and court proceedings shall be regulated by law.

307. Court hearings shall be open and judgments shall be passed publicly in the name of the Republic of Croatia. The public may be barred from an entire hearing or parts of it if minors are being tried, or to protect the privacy of the parties, or in marital disputes and proceedings in connection with guardianship and adoption, or for the purpose of protection of military, official or business secrets and for the protection of security and defense of the Republic of Croatia.

308. Judges and lay-assessors who take part in the administration of justice shall not be liable for an opinion given in the process of judicial decision-making.

309. Judges shall, in conformity with law, enjoy the same immunity as members of the Croatian State Parliament. Judicial office shall be permanent. A judge shall be relieved of his or her judicial office:

- at his or her own request;
- if a person has become permanently incapacitated to perform his or her office;
- if a person has been sentenced for a criminal offense which makes her or him unworthy to hold judicial office;
- if in conformity with law it is so decided by the State Judicial Council due to the commission of an act of serious infringement of discipline.

A judge shall not be transferred against his or her will. A judge shall not hold an office or perform work defined by law as being incompatible with his or her judicial office.

310. Judges and public prosecutors shall, in conformity with the Constitution and law, be appointed and relieved of duty by the State Judicial Council, which will also decide on all matters concerning their disciplinary responsibilities.

311. The State Judicial Council shall have a president and 14 members.

312. The president and members shall be proposed by the House of Counties and shall be elected by the House of Representatives for a term of eight years from the ranks of distinguished judges, public prosecutors, lawyers and university professors of law, in conformity with law.

313. **The Constitutional Court of the Republic of Croatia** (Articles 122 to 127 of the Constitution)

- shall decide on conformity of laws with the Constitution;
- shall decide on conformity of other regulations with the Constitution and law;
- shall protect the constitutional freedoms and human rights;
- shall decide on jurisdictional disputes between legislative, executive and judicial branches;
- shall decide, in conformity with the Constitution, on the impeachment of the President of the Republic;
- supervises the constitutionality of the programs and activities of political parties and it may, in accordance with the Constitution, prohibit their work;
- supervises constitutionality and legality of elections and national referendum;
- shall conduct other affairs specified by the Constitution.

314. Article 25, Paragraph 2 of the Constitution specifies:

Anyone who is detained and accused of a criminal offense shall have the right to be brought before the court within the shortest term specified by law and shall be acquitted or sentenced within the statutory term.

315. Article 28 of the Constitution specifies:

Everyone shall be presumed innocent and may not be considered guilty of a criminal offense until proved guilty by final court judgment.

316. Article 31, Paragraphs 2 and 3 of the Constitution:

No one shall be tried anew for an offense for which he was already tried and for which a final sentence was pronounced.

No criminal proceedings shall be re-instituted against a person acquitted by a final court decision.

317. Article 2, Paragraphs 1 and 2 of the **Criminal Code**:

"(1) Criminal offenses and criminal sanctions may be prescribed only by law.
(2) No one may be punished, and no criminal sanction may be applied, for conduct which did not constitute a criminal offense under statutory provisions or international law at the time it was committed and for which the kind and degree of punishment by which the perpetrator was to be punished had not been prescribed by law."

318. Article 4 of the Criminal Code:

No one shall be punished, and no criminal sanction shall be applied, unless the perpetrator is found guilty of the committed offense.

319. **The Law on Criminal Procedure** sets forth:

Articles 350 and 351

The judgement may relate only to the person who was charged and to the act which was the objects of the charge as specified in the indictment submitted, amended or extended at the main trial. The court shall found its judgement only on the facts and evidence presented at the main trial.

Regarding the **pronouncement of judgment**, after the court passes a judgement, the president of the panel shall pronounce it immediately. If the court is unable to pass the judgement on the same day the main trial has concluded, it shall postpone the pronouncement of the judgement for not more than three days and determine the time and place of the pronouncement.

The president of the panel shall, in the presence of the parties, their legal guardians, legal representatives and defense counsel, read out the sentence of the judgement in open court and briefly state the reasons for such a judgement.

If the main trial was closed to the public, the judgement shall always be read out in open court. The panel shall decide on whether and, if so, to what extent the pronouncement of the reasons for the judgement shall be closed to the public.

320. Article 292 of the Law on Criminal Procedure prescribes **that the main trial shall be public**. Any person of age may be present at the main trial. Persons attending the main trial must not carry arms or dangerous tools, except the defendant's guard who may be armed.

321. The reasons for the exclusion of public are prescribed in article 293 which reads as follows:

"From the opening of the session to the conclusion of the main trial the panel may at any time, by virtue of the office or on the motion of the parties but always after hearing their statements, exclude the public from entire or part of the main trial if this is necessary for:

1) security protection and the defense of the Republic of Croatia;

2) keeping confidentiality of information which would be jeopardized by a public hearing;

3) keeping public order and peace;

4) protection of personal or family life of the defendant, the injured person or of another participant in the proceedings;

5) protection of the interests of a minor.

322. Article 294 of the criminal code prescribes the following:

"(1) Exclusion of the public does not relate to the parties, the injured person, their representatives and the defense counsel.

(2) The panel may grant permission that certain officials, scholars or public figures, and upon the defendant's request, his or her spouse or common law spouse or close relatives, be present at the main trial closed to public.

(3) The president of the panel shall instruct the persons attending the closed main trial that they are bound to keep confidential information learned at the main trial, and that the failure to do so is an offense."

323. Pursuant to Article 295, the panel shall decide on exclusion of the public by a ruling which shall be substantiated and publicly pronounced. An appeal from the said ruling does not suspend its execution.

324. Ruling on exclusion of the public from the main trial delivered in violation of law shall constitute an essential violation of the rules of criminal procedure.

325. Article 306 of the **Law on Civil Procedure** (NN 53/91 and 91/92) guarantees **public main trial**.

Article 306 reads as follows:

"Main hearing shall be public.
Only persons of age may be present at the main trial.
Persons attending the main trial must not carry arms or dangerous tools."

Paragraph 3 of this Article does not refer to the guards of persons taking part in the proceedings.

326. Article 307 thereof specifies requirements for the exclusion of public in the following way:

"The panel may exclude public from the main trial or from one of its parts in the interest of the keeping of official, business or personal secret or in the interest of public order or moral.
The panel may exclude public when measures for maintenance of order envisaged by this Law are not sufficient for an undisturbed carrying out of the main trial."

327. Pursuant to Article 308, exclusion of public does not apply to the parties, their legal guardians, legal representatives and intervenors. Panel may grant permission to certain officials, scholars or public figures to be present at the main trial which is otherwise closed to public if this is of interest for their service or for their scientific or public activities. Subject to the request of a party, the panel may grant permission to not more than two persons to attend the main trial closed to public.

328. The president of the panel shall advise persons who are present at the main trial closed to public that they have an obligation to keep secret everything they heard at the trial, and shall inform them about the consequences of the disclosure of such secrets.

329. In accordance with Article 309, the panel shall decide on the exclusion of public by a ruling that has to include a statement of reasons, and be publicly pronounced. A separate appeal is not permissible from the ruling on the exclusion of public.

330. Pursuant to Article 354, Paragraph 1, Point 12 of the Law on Criminal Procedure, exclusion of public from the main trial in violation of law constitutes an essential breach of provisions of civil procedure.

331. Written copy of the sentence has to fully correspond to the pronounced sentence. A sentence has to have an introduction, holding and statement of reasons.

332. Article 102 of the Law on Criminal Procedure provides that parties and other participants to the proceedings are entitled to use their own language during trial and when submitting oral motions before the court. If proceedings are not conducted in the language of the party or of another participant to the proceedings, interpretation to their language shall be provided for. Interpretation

shall include everything what is orally transmitted at trial, as well as interpretation of the reading of documents produced at trial as evidence.

333. The costs of the interpretation to the language of minority incurred by the application of the provisions of the Constitution of the Republic of Croatia and of this Law, as well as of other laws regulating the rights of members of minorities to use their language, shall be borne by the court (Article 105 of the Law on Criminal Procedure).

334. Article 7, Paragraph 2 of the Law on Criminal Procedure regulates the use of language in case where the accused does not understand official language.

"The parties, witnesses and other participants in the proceedings shall have the right to use their own language. If the proceedings are not carried out in the language of that person, the interpretation of statements and the translation of documents and other written evidence shall be provided. The interpretation and translation shall be carried out by an interpreter."

335. **Right to defense and contacts with accused** are regulated by Article 62, Paragraph 3 of the **Law on Criminal Procedure**:

" The defendant must be informed before the first interrogation of his or her right to retain defense counsel and of the right to have the defense counsel present during the interrogation."

And by Article 69, Paragraphs 1, 2 and 3:

" The defense counsel may communicate orally or in writing with the defendant in custody without supervision.

In proceedings for criminal offenses against values protected by international law, anti-state terrorism, kidnapping, murder, robbery, abuse of narcotic drugs, counterfeiting of money, money laundering as well as endangering life and property by commonly dangerous acts or means, if there are grounds for suspicion that these offenses are committed by the body of people or criminal organization, the investigating judge may decide to monitor letters, messages and conversations between the defendant and the defense counsel.

The investigating judge shall pass decision on supervision in form of ruling with the statement of reasons. The appeal against this ruling shall not stay its execution."

336. Mandatory legal representation is regulated by Article 65, Paragraphs 2, 3 and 4:

"If the defendant is in custody, he or she must have defense counsel throughout the time he or she is in custody.

After the indictment has been issued for an offense punishable by imprisonment for a term of eight years, the defendant must have defense counsel at the time the indictment was served.

A defendant tried in his or her absence (Article 305 Paragraphs 4 and 5) must have defense counsel as soon as the ruling on the main trial in absence is rendered."

337. Waiver of obligation to testify is provided for by Articles 233 and 234 of the Law on Criminal Procedure:

" The following persons may not testify as witnesses:

1) the defendant's spouse or common law spouse;

2) the defendant's linear relatives by blood, collateral relatives by blood to the third degree and relatives by affinity to the second degree;

3) the defendant's adoptive parent and adopted child;

4) religious confessor regarding information which the defendant confessed to him or her;

5) attorneys, notaries public, tax consultants, physicians, dentists, pharmacists, midwives and social workers regarding information coming to their knowledge in performing their respective professions;

6) journalists and their editors in the mass media regarding the sources of information and data coming to their knowledge in performing their profession and were used in the editorial process in the mass media, except in criminal proceedings for offenses against honor and reputation committed by the means of the mass media.

338. Interrogation of defendant is regulated by Article 225, Paragraphs 2, 4, 6, 7 and 9 of the Law on Criminal Procedure:

"Thereafter the defendant shall be informed of the offense he or she is being charged with and of the grounds for suspicion and shall be instructed that he or she need not to present his or her defense or to answer any questions as well as that he or she is entitled to retain a defense counsel of his or her own choosing. Then the defendant shall be called to present his or her defense, before which he or she is entitled to consult a defense counsel.

During interrogation the defendant shall be given an opportunity to comment in an uninterrupted presentation all the circumstances against him or her and to present all the facts supporting his or her defense.

Interrogation should be performed in such a manner that the defendant's person is fully respected.

It is forbidden to use force, threat or other similar means to obtain the defendant's statement or confession.

In case of failure to comply with the provisions of Paragraph 2, 7 and 8 of this Article or if the defendant's declarations regarding the right to defense counsel are not entered in the record, the decision of the court may not be founded on the statement of the defendant.

339. In the Republic of Croatia, the **Law on Juvenile Courts** (NN 111/97) contains provisions of criminal substantive and procedural law relating to minors and junior adults (age of 18 to 21), as well as regulations on jurisdiction and organization of juvenile courts, provisions on execution of sanctions, and provisions on protection of children and minors by criminal law. Thus, this segment of criminal legislation is strictly separate from criminal legislation applicable to persons of full age.

340. This law significantly reduces the duration of certain educational measures, especially institutional measures, and reduces minimum penalty of juvenile prison from one year to six months, as well as the maximum penalty from ten to five years. The provisions of this Act emphasize the principle of subsidiarity of criminal prosecution (ultima ratio) to far greater extent then before, as well as the principle of proportionality of punishment.

341. In accordance with the Juvenile Courts Act (NN 111/97), minor perpetrators of criminal offenses (ages 14 to 18) can be sentenced to educational measures, juvenile prison, and to security measures.

342. Educational measures are the following:

- judicial admonition;
- placement in an educational center;
- enhanced care and supervision;
- enhanced care and supervision accompanied by day care in an
- educational institution;
- placement in an educational institution;
- placement in an educational facility;
- placement in a special educational institution.

Selection of juvenile prison sentence

343. - juvenile prison sentence can not be shorter than six months nor longer than five years, and shall be pronounced in full years and months. However, juvenile prison sentence may be imposed for up to ten years for the crimes sanctioned by punishment of long term imprisonment, or for a concurrence of at least two criminal offenses sanctioned with punishment of more than ten years.

Special character of juvenile prison sentence

344. - juvenile prison sentence is a punishment which consists of deprivation of liberty, and has special features regarding the pronouncement, duration, purpose and the content of sanction

345. - juvenile prison sentence can be pronounced to a senior minor for crimes for which law envisages prison sentence of five years or more if, having in mind the nature and seriousness of the criminal offense and a high degree of guilt, such punishment is necessary.

Application of security measures against minors

346. Minors - perpetrators of criminal offenses may be subject to educational measures, juvenile prison sentence, security measure of mandatory psychiatric treatment, mandatory treatment of addiction, expulsion of alien from the country and seizure of objects. Senior minors may be prohibited to drive a motor vehicle.

347. Juvenile prison sentence may not be shorter than one year, or longer than ten years. However, court is not bound by minimum punishment prescribed for individual criminal offenses (Article 73). Only minors who have completed 16 years of age (senior minors) and committed a criminal offense subject to punishment of five years of imprisonment shall be punished (Article 72). It follows that juvenile prison sentence may not be pronounced in respect of all minors who are criminally responsible, and not for all criminal offenses. The new Criminal Code has significantly downscaled the lower and upper edge of prison sentence, taking into account that criminal law and application of sanctions represent *ultima ratio societatis*. The provisions of this law emphasize the principle of proportionality of punishment and this principle is fully applied in judicial practice.

348. The data on criminal sanctions imposed on minors are given ad Article 10 of the Covenant.

349. Article 25, Paragraph 4 of the Constitution of the Republic of Croatia reads as follows:

Any person who has been unlawfully deprived of liberty or convicted shall, in conformity with law, be entitled to damages and a public apology.

350. Articles 476 to 484 of the Law on Criminal Procedure regulate the **procedure for the compensation of damages** in respect of person who was unjustly convicted and subsequently acquitted after having resorted to legal remedies, or if the indictment was rejected, or procedure discontinued; in respect of person who was detained but was not subsequently convicted to serve prison sentence; and person who was held in detention or prison longer than necessary. This was elaborated in context of Article 9 of the Covenant.

ARTICLE 15

351. This principle is envisaged by Article 31 of the Constitution of the Republic of Croatia:

1. No one shall be punished for an act which did not constitute a penal offense, under domestic or international law, at the time when it was committed, nor shall be sentenced to a penalty which was not applicable at the time the offense was committed. If a less severe penalty is determined by law after the commission of an offense, such penalty shall be imposed.

No one shall be tried anew for an offense for which he was already tried and for which a final sentence was pronounced.

No criminal proceedings shall be re-instituted against a person acquitted by a final court decision."

352. Article 2 of the Criminal Code reads as follows:

(1) Criminal offenses and criminal sanctions may be prescribed only by law.

(2) No one may be punished, and no criminal sanction may be applied, for conduct which did not constitute a criminal offense under statutory provisions or international law at the time it was committed and for which the kind and degree of punishment by which the perpetrator was to be punished had not been prescribed by law.

353. The Criminal Code also provides for **mandatory application of a less severe law**. Article 3 thereof reads as follows:

1) The law in force at the time the criminal offense was committed shall be applied against the perpetrator.

(2) If, after the criminal offense has been committed, the law changes one or more times, the law that is more lenient to the perpetrator shall be applied.

354. By virtue of Article 134 of the Constitution (quoted above), crimes envisaged by international treaties which are in force in the Republic of Croatia can also be subject to criminal prosecution. These are crimes from the field of humanitarian law of the Geneva Convention and its Protocols, and as far as protection of human rights is concerned - Universal Declaration of Human Rights, International Covenant of Human Rights, International Covenant on Civil and Political Rights and its Protocols, Covenant on Economic, Social and Cultural Rights, Convention on Punishment and Prevention of the Crime of Genocide, International Convention on Elimination of All Forms of Racial Discrimination, International Convention on the Elimination and Punishing of the Crime of Apartheid, International Convention on Elimination of All Forms of Discrimination against Women, Convention Against Torture and Other Cruel, Inhuman and Degrading Procedures, Convention on Rights of the Child etc.

ARTICLE 16

355. Legal system of the Republic of Croatia has adopted a classical concept of legal personality.

356. What makes human being a person in legal sense is his or her capacity to be a bearer of rights and obligations. Legal personality is absolute and can not be established or terminated upon private disposition. Particularly, no one can renounce his or her legal personality.

357. As far as individuals are concerned, legal personality is acquired by birth of a live person, but the legal system treats person as a subject even before birth (legal fiction of *nasciturus*).

358. Legal personality is terminated by death, at the moment of cessation of work of heart and brain, or by declaring a person dead.

359. Legal persons have legal personality as creations to which legal order recognizes, subject to certain requirements, their legal personality. Legal persons need to have firm and permanent organization, separate assets and have to be registered with appropriate register. At the moment of registration they acquire legal personality of special character (depending on aims for pursuance of which a legal person is established). This is regulated by the Law on Corporations (NN 111/93), the Law on Associations (NN 77/97 and 106/97) etc.

360. The said right is guaranteed to everyone, even to persons suffering mental disorder. Fundamental principles, methods of organization and implementation of protection, as well as the requirements for the application of measures and treatment of persons suffering mental disorder are regulated in the **Law on the Protection of Persons Suffering Mental Disorder** (NN 111/97).

361. The effects of a legal personality are recognized to aliens. Article 26 of the Constitution of the Republic of Croatia specifies that all citizens and aliens shall be equal before courts, government agencies and other bodies vested with public authority.

a) **Legal capacity** is capacity to acquire rights and obligations by one's own activities and expression of will.

b) **Tort/Criminal capacity** is capacity of legal subjects to be held responsible for their illegal deeds.

362. Individuals acquire legal capacity at age of 18, provided they are capable of making their own judgments. Married and employed individuals may acquire legal capacity even before the age of 18.

363. Limited or partial legal capacity means that a person can enter into legal transactions, but these transactions shall be valid only if approved by his or her legal guardian.

364. Individuals who do not have legal capacity at all can not enter into legal transactions. Their legal guardians have to act on their behalf.

365. An individual shall have tort/criminal capacity if he or she over 14 years of age, and if he or she is mentally sane.

366. **Legal persons** exercise their legal capacity through their bodies. Such bodies can consist of one or more individuals. Tort/criminal capacity of legal persons means their responsibility for illegal actions. If guilt is required to constitute responsibility, guilt of these bodies will be required.

367. Article 77 of the Law on Criminal Procedure specifies that any individual and legal person can be party to civil proceedings.

ARTICLE 17

368. Articles 22, 23 and 24 of the Constitution of the Republic of Croatia specify that freedom and personality of everyone shall be inviolable. No one shall be deprived of liberty, nor may his or her liberty be restricted, except upon a court decision in accordance with law. Any person arrested or detained shall have the right to initiate proceedings before a court, which shall decide without delay on the legality of the arrest. Article 25 of the Constitution specifies that all arrested and convicted persons shall be treated with humanity and their dignity shall be respected. A detainee may be released on bail to defend himself or herself. Any person who has been unlawfully deprived of liberty or convicted shall, in conformity with law, be entitled to damages and a public apology.

369. Article 34 of the Constitution guarantees inviolability of home. Only a court may order the search of a home or other premises, issuing a warrant in conformity with law and a statement of reasons. The tenant or his or her representative shall have the right to be present at the search of home or other premises in addition to the compulsory presence of two witnesses.

370. Freedom and privacy of correspondence and all other forms of communication shall be guaranteed and inviolable.

371. Restrictions necessary for the protection of the state security and the conduct of criminal proceedings may be prescribed only by law (Article 36 of the Constitution).

372. Article 37 of the Constitution reads as follows: "Everyone shall be guaranteed the safety and secrecy of personal data. Without consent of the person concerned, personal data may be collected, processed and used only under conditions specified by law."

373. A search aimed at finding or securing evidence for which there exists grounded probability to be found in the home of the perpetrator of a criminal offense, may only be carried out in the presence of witnesses.

374. However, Article 213, Paragraph 4 of the Law on Criminal Procedure specifies that the search may be commenced without previously producing a warrant and without the instruction on the right to a defense counsel or without the invitation to hand over the person or objects if armed resistance is expected or when it is required to carry out a search by surprise in cases where it is likely that serious offenses are involved committed by a group or criminal organization or whose perpetrators are connected with persons from abroad, or if the search shall be carried out on public premises.

375. Assumption of possible armed resistance depends on concrete circumstances. A reason for the departure from the sequence envisaged in Paragraphs 2 and 3 of Article 213 can be armed resistance, i.e. resistance accompanied with threat or use of weapons. Any means which within meaning of valid legislation qualifies as weapon will suffice. Resistance has to be related to weapons in the said sense. It follows that resistance to search performed in some other way, i.e. by the use of active physical resistance, by the use of martial arts, by the use of means or tools which can not be characterized as weapons, can not serve as a base for departure from provisions of Paragraphs 2 and 3.

376. The concept of serious criminal offense in this case has certain additional characteristics. Namely, it has to be a serious criminal offense committed by a group or by a criminal organization. There has to be grounds of evidence that the offense was committed and that it was committed by a group or by a criminal organization. A notion of "group" has to be interpreted within meaning of Article 89, Paragraph 22 of the Criminal Code, and notion "criminal organization" within meaning of Article 89, Paragraph 23 thereof. It has to be kept in mind that the seriousness of criminal offense, and the fact that it has been committed by the said group of criminals are cumulative conditions. Mere seriousness of a criminal offense, or the fact that it was committed by a group or criminal organization does not suffice for the departure from regulations specifying the sequence of actions preceding the search. Other collectivities mentioned by the Criminal Code (more than one person - Article 89, Paragraph 20, and a group of people - Article 89, Paragraph 21) are not mentioned by the Law.

377. According to the information from the Ministry of Interior the data bellow refers to criminal offenses of infringing the inviolability of dwelling, unlawful search, violating privacy of correspondence and other pieces of mail, illegal recording and wiretapping, and violation of right to submit legal remedies. Table below refers to period between 1994 and 1998.

CRIMINAL OFFENSE	1994		1995		1996		1997		1998	
	NC	RP	NC	RP	NC	RP	NC	RP	NC	RP
Infringing the inviolability of dwelling	4	3	4	3	3	5	2	2	70	87
Unlawful search	0	0	0	O	0	0	1	0	0	0
Violating privacy of correspondence etc.	9	7	32	13	4	4	1	1	17	0
Unauthorized recording and wiretapping	0	0	1	0	0	0	0	0	2	0
Violation of right to submit legal remedies	0	0	0	0	0	0	1	1	1	0

NC - number of crimes
RP - reported persons

378. The next table shows criminal offenses against fundamental rights of a person and a citizen according to the respective judicial proceedings.

CRIMINAL OFFENSES AGAINST FUNDAMENTAL RIGHTS OF A PERSON AND A CITIZEN

crime	Perpetrator	1995	1996	1997	1998
Violating inviolability of home	Reported	31	8	9	90
	Indicted	48	41	35	43
	Convicted	7	-	7	8
Unlawful search	Reported	-	-	5	8
	Indicted	-	2	-	2
	Convicted	-	-	-	-
Violating privacy of correspondence and other pieces of mail	Reported	8	1	1	5
	Indicted	2	5	4	-
	Convicted	1	2	2	-
Unauthorized disclosure of professional secrets	Reported	-	-	-	4
	Indicted	-	-	-	-
	Convicted	-	-	-	-
Preventing or disturbing freedom to public assembly	Reported	-	-	-	1
	Indicted	-	-	2	-
	Convicted	-	-	-	-
Unauthorized recording and wiretapping	Reported	-	1	-	6
	Indicted	-	1	-	1
	Convicted	-	-	-	1
Violation of the right to submit legal remedies and petitions	Reported	1	1	2	2
	Indicted	-	1	-	-
	Convicted	-	-	-	-
Prevention of printing and distributing printed materials and of broadcasting	Reported	3	-	-	-
	Indicted	-	-	-	3
	Convicted	-	-	-	-

379. The Law regulates the protection of data and the supervision of information systems in the Republic of Croatia.

The use of personal data contrary to the purpose for which they were collected is prohibited.

380. The issue of safety and confidentiality of personal data in the Republic of Croatia is regulated by the following legal instruments:

- The Law on Administrative Procedure (NN 53/91);
- The Family Code (NN 162/98); and
- The Regulation on Office Management.

381. Public administration authorities and other state authorities when proceeding in administrative matters and deciding about rights, obligations or legal interests of citizens must comply with the provisions of the law applicable on keeping official secrets, or confidentiality of information related to the protection of personal data in proceedings. Also, the said authorities have the official duty to take into account who is entitled to have access to case files, i.e. to take into account the provisions of the laws and other regulations specifying what materials are freely accessible and what materials can be copied from files, and in which instances and procedures public access is excluded.

For example:

1) The provisions of the Family Code (Article 65 Paragraph 3) create an obligation for guardianship authority to keep secret all information that were disclosed during the conciliation of spouses.

2) The same Family Code provides that information contained in case files related to the adoption of a child constitutes official secret, and it designates persons who may have access to these files over a certain period of time.

382. This right is guaranteed by the Constitution and regulated by the following labor regulations:

- The Labor Law (NN 38/95, 54/95 and 65/95);
- The Law on Public Records in the Area of Employment (NN 34/91, 26/93 and 29/94).

383. Article 22 of the Labor Law regulates the protection of privacy of employees and specifies that personal data of employees can be collected, retrieved, used and forwarded to third persons only in cases specified by law, or if necessary for the purpose of exercise of the rights and obligations based on employment, or related to employment. Employers have the obligation to designate in advance, by their bylaws, which information related to employees is going to be collected, retrieved, used or forwarded to third persons for the purpose of exercise of rights based on employment.

384. Only employer or person specifically authorized by the employer may collect, retrieve, use and forward personal data of employees to third persons. Personal data for keeping of which there no legal or actual reasons exist, have to be erased or removed in some other way.

385. The employer shall have the obligation to appoint the person authorized to supervise whether personal data of employees are collected, retrieved, used or forwarded to third persons in accordance with law. This person has to be trusted by employees, and has an obligation to take good care of information which he or she came across in the course of the performance of his or her duty.

386. When concluding a contract of employment, the employer must not ask employees to provide data that are not directly related to the employment.

387. The Law expressly specifies that the employer must not require from employees any data related to pregnancy, and may not instruct another person to request such information.

388. The records kept in the field regulated by the Labor Law, i.e. records kept for the purpose of exercise of rights of employees based on employment and related to employment are regulated by special law. This law specifies which information related to employees shall be entered to records, and for which purpose this information can be used.

389. During the analyzed period between January 1, 1994 and December 31, 1997 the Ministry of Interior did not register any criminal offenses of unauthorized disclosure of secret information. As far as safety and confidentiality of personal data are concerned, a special regime of authority to use such data is envisaged. Actual time and name of persons accessing such information are electronically recorded and reasons and justifiability of access to such records are supervised.

390. The mentioned rights guaranteed by the Constitution are granted also in the cases of violation of official duty by public servants. Namely, Article 41 of the Law on Public Servants and Employees and on the Salaries of the Holders of Judicial Offices (NN 74/94, 86/94, 7/95 and 75/95 – hereinafter: "LPS") specifies that serious violations of official duty shall be prescribed by law, and minor violations by law, by governmental regulation or by rules set forth by a minister or some other head of a state authority.

391. Article 44 of the LPS provides that public servants can be punished for violation of their official duty in the way, and subject to the procedure specified by law.

392. Only one sanction envisaged for a single violation of official duty may be pronounced.

393. Article 50, Paragraph 2 of the LPS regulates that the rules of the Law on Criminal Procedure shall be applied to the proceedings conducted on the grounds of a serious violation of an official duty. In this way, the above mentioned constitutional rights to impartial trial, due process, determined character of crimes and sanctions, right to a defense counsel, etc. are guaranteed. Namely, these rights are guaranteed by the Law on Criminal Procedure.

394. These documents contain almost identical principles of personal data protection (legality, accuracy, purposefulness, personal access to data, prevention of discrimination, safety, institute of excusing an official from proceeding in a particular case, legally based exchange of information,

general application of protection) and recommend or require existence of a fundamental law on protection of personal information and other procedures for protection of personal data.

395. New legislation has narrowed the possibility of detention of citizens in police premises from three to one day at maximum. At the same time the reasons for detention are now restricted exclusively to the protection of freedoms and rights of other persons, protection of legal order, public morals and health. There is no possibility of discretionary extension of these grounds. In addition to this, judicial protection of rights of a detained person is ensured, as well as the application of the Convention on Diplomatic and Consular Relations, in the case of a foreign diplomat. Moreover, we emphasize that the possibility for police to order detention is eliminated. This is now within the exclusive jurisdiction of court, thus constituting an additional guarantee of legality in the application of this measure.

396. As mentioned before, in the performance of its activities, the police is mainly confronted with conflict social situations. Accordingly, in the exercise of its authority the police is additionally exposed to a permanent danger of excessive interference in the sensitive area of human rights and freedoms. A very detailed procedure has been establish to avoid this, and this procedure has to be adhered to in the case of complaints against the police behavior, including cases of citizens' complaints against any form of maltreatment or any other form of illegal procedure. The Ministry of Interior has the obligation to inform the applicant what has been done regarding his or her complaint within 30 days.

397. In all instances of overstepping authority while using means of coercion, the police is subject to the application of the rules which regulate both criminal and a very strict disciplinary responsibility. This is another obstacle to any form of discretion and recklessness in the treatment of citizens.

398. The starting point for the application of coercive measures is based on fundamental democratic standards. Police has to deal with the two opposing principles on daily basis - humane treatment and application of precisely prescribed means of coercion. Sometimes this brings police into situations where it may act without grounds.

399. The table below is made according to the information provided by the Ministry of Interior. It refers to the use of means of coercion in the analyzed period and indicates the evaluation of whether the use has been justified or not.

MEANS OF COERCION	TOTAL					JUSTIFIED					UNJUSTIFIED				
	1994	1995	1996	1997	**1998**	1994	1995	1996	1997	**1998**	1994	1995	1996	1997	**1998**
Fire arms	29	10	9	10	**11**	27	10	8	9	**10**	2	0	1	1	**1**
Rubber stick	88	27	30	17	**21**	81	23	29	17	**20**	7	4	1	0	**1**
Physical strength	625	407	399	343	**446**	608	399	386	333	**439**	17	8	13	10	**7**
Other means	25	6	55	88	**102**	25	5	48	87	**101**	0	1	7	1	**1**
TOTAL	767	450	493	458	**580**	741	437	471	446	**570**	26	13	22	12	**10**

ARTICLE 18

400. Article 38 of the Constitution reads as follows:

"Freedom of thought and expression shall be guaranteed.

Freedom of expression shall specifically include freedom of the press and other media of communication, freedom of speech and public expression, and free establishment of all institutions of public communication.

Censorship shall be forbidden. Journalists shall have the right to freedom of reporting and access to information.

The right to correction and reply shall be guaranteed to anyone whose constitutionally determined rights have been violated by public information."

401. Article 14 of the Constitution provides that everyone in the Republic of Croatia shall enjoy all rights and freedoms, regardless of their religion. Constitution guarantees freedom of thought and expression, and freedom of conscience and religion, as well as free and public practice of religion or other convictions. In accordance with this, children have the right to freedom of thought, conscience and religion.

402. Pursuant to the Constitution, all religious communities are equal before law and separated from the state. Religious communities shall be free, in conformity with law, publicly to perform religious services, open schools, teaching establishments and other institutions, social and charitable institutions, and to manage them, and shall in their activity enjoy the protection and assistance of the state.

403. Having in mind that there is a smaller number of members of non-Catholic confessions in the Republic of Croatia, they have legal guarantees to freely celebrate their main religious holidays (they have the right not to work and to receive compensation for the days when they were absent from work). This is a reflection of equality of all citizens and demonstrates real respect for all confessions.

404. The Ministry of Education and Sports co-operates with religious communities that have proposed curricula for religious education for pupils who are members of particular religious communities. The proposed curricula are approved by the Ministry and published in media. Religious education is confessional (Roman Catholic, Greek Orthodox and Muslim). It is performed in primary and secondary schools, 2 hours per week. Classes are conducted by teachers of religion (priests, lay teachers, nuns), and are facultative. This means that pupils can not drop these classes during a school year, classes are graded and calculated as a part of average grade. Choosing religious education is voluntary. In primary school parents have to sign a written consent, and in secondary school consent has to be signed by the parents and the pupil. Dropping out is permissible at the beginning of each school year by oral statement to class master and no reasons need to be given for this.

405. If parents so desire, religious education may be held in kindergartens. Catholic religious community operates a number of kindergartens.

406. Pursuant to the Constitution, parents have a special role and importance for upbringing of children and are completely free to choose the type of education for their children. In accordance with this, parents decide about religious affiliation of their children and choose the type of education (religious or atheistic), i.e. decide whether their children have to take religious education or not. Some critics say that a child due to his or her lack of maturity, can not express his or her will in respect of change of confession or non-attendance of religious education, or about becoming member of certain confession. State authorities intervene only if interests of the child are in danger.

407. Because of the destruction of religious facilities during the war in Croatia, believers, including children, do not have opportunity to practice their religion in certain areas.

Conscientious Objection (The Armed Forces of the Republic of Croatia)

408. In the Republic of Croatia, conscientious objection was introduced in the legislation in 1993 to regulate military service. The Law on Defense (NN 74/93 and 57/96) provides for the conditions a person must fulfill in order to be allowed conscientious objection. By the Decision of the Constitutional Court of the Republic of Croatia, No. U-I-20/1992 (NN 31/98) which abolished the provisions of Article 84, Paragraph 2, Article 92 and the provision of Article 206 of the Law on Defense which reads: "within 24 months from the day this Law enters into force", it was established that pursuant to the provisions of Article 47 Paragraph 2 and Article 40 of the Constitution of the Republic of Croatia, and referring to Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the realization of the human right to conscientious objection cannot be limited by prescribing the periods of time within which it may be expressed or by connecting it with the time limits beyond which this right cannot be demanded. The Regulations on the Performance of Military Service and Execution of Civil Service (NN 9/97) provide for the ways of alternative military service (Articles 29-42).

409. In the Republic of Croatia, conscientious objection is granted to those who because of their religious and moral views are not prepared to participate in the performance of military services in the armed forces. Such persons are obligated, however, to fulfil other duties stipulated by this Law and are called "civil draft registrant".

410. During their service, civil draft registrants, as a rule, have the same obligations as other conscripts. The only difference is that they do not carry weapons and do not apply any kind of force against other people. The tasks performed by civil draft registrants are specified by the Government of the Republic of Croatia.

411. The mentioned civil service is, as a rule, carried out in the Croatian army and it involves tasks which do not require a certification to carry and to use any kind of weapons. It can also be

carried out in legal entities whose business administration and headquarters are in the Republic of Croatia and are determined by the regulations of the Minister of Defense.

412. Recruits who believe they fulfill the conditions for civil service, upon being entered in the military register, submit an application to the Civil Service Commission. The Commission is composed of a social worker, a psychologist, a physician, a representative of the Ministry of Defense and of the Ministry of Education and Sports and a theologist.

413. A representative of the Ministry of Defense can not be the President of the Civil Service Commission. Recruits are obligated to state their religious and moral reasons because of which they ask for civil service very convincingly in their application and expressly state that in the case of a positive outcome of their application, they will conscientiously fulfill all the obligations of their civil service.

414. The Civil Service Commission must resolve such an application not later than within 3 months. The Decision on referring a recruit to civil service must contain the time when such a service commences, as well as when it ends, the name and the seat of legal entity or the institution of armed forces in which it is served.

415. An appeal may be lodged within 15 days against the decision of the Commission. The appeal against the decision of the Commission shall be decided by a Commission appointed by the Government of the Republic of Croatia.

416. A civil draft registrant shall be referred to a post which suits his or her capacities most but must not be directed to a legal entity or a body in which he is employed at the moment of reference or at which he worked one year prior to the reference.

417. Legal entities, designated for civil service, shall pay specified compensations to the government.

418. A person who has completed his or her civil service, shall be transferred to a reserve formation and be designated for civil protection or other duties which do not require the necessity of carrying and using weapons.

419. The supervision of the execution of civil service shall be carried out by the Ministry of Defense and the Ministry of Justice.

420. The regulation of civil service has gone a step further and a separate Book of Regulations has been passed to determine legal entities in which civil service can be performed in the Republic of Croatia (NN 23/95 and 35/95), as well as the Decision on the Tasks of Civil Draft Registrants (NN 7/94).

421. Article 1 of the Regulations contains a list of all institutions in which such service may be carried out.

422. These are mainly the following fields:

1) Economy: Croatian companies (oil, chemistry, textile);
2) Maritime, transport and communications (e.g. Croatian Railways);
3) Labor and social welfare: (e.g. children's homes, shelters for children, educational centers, nursing homes, institutes for social and health protection;
4) Health (Clinical Hospital Centers, General Hospitals in all Croatian towns);
5) Judiciary (Supreme Court of the Republic of Croatia, all municipal courts, Commercial Courts, etc.);
6) Administration.

423. In relation to Article 10 and with regard to Article 18 of the Covenant, we provide the following information about the right to religion of persons deprived of their freedom:

424. Pursuant to the provision of Articles 40 and 41 of the Constitution of the Republic of Croatia by which every citizen shall be guaranteed freedom of conscience and religion and free public profession of religion and other convictions, Article 14a of the Law on Execution of Sanctions for Criminal Offenses, Economic Transgressions and Contraventions establishes that convicted persons have the right to satisfy their religious needs. In the same Article, the Law provides that every penal institution and prison must ensure the conditions for the satisfaction of religious needs of convicted persons. On that basis, this right of persons deprived of their freedom is guaranteed also by the provisions of regulations passed on the basis of laws, primarily with regard to house order of penal institutions.

425. The satisfaction of religious needs is a personal right of every person deprived of freedom and it is not permitted to influence that right during the execution of a prison sentence by applying any form of coercion or pressure.

426. In the practice of executing criminal sanctions in the Republic of Croatia, the satisfaction of the mentioned right of convicted persons is organized in various ways, depending on the level of security of the penal body and the legal status of the person deprived of freedom.

427. Thus, a special area is dedicated for the satisfaction of religious needs in penal institutions with a high degree of security, properly equipped with religious contents and relics. The administrations of penal institutions organize regular liturgies, masses and special holiday celebrations attended by all persons who have been deprived of their freedom whenever they feel the need or are spiritually incited to do so.

428. Liturgies are organized in cooperation with priests from local perishes for the believers of religions of the majority of the prison population. However, for prisoners of other religions, like members of the Greek Orthodox religion or Muslims, who are much less numerous than Roman Catholics, the administration of the penal institution is obligated to organize a free contact with priests and free expression of religious needs and customs of their own faith.

429. When needed and during the service of the sentence, a convicted person shall be given an opportunity to study his or her religion, to receive holy sacraments and to participate in religious ceremonies like acts of baptisms or weddings. Whenever it does not seriously impact the prison order and discipline, the prisoner shall be allowed to behave in conformity with some special forms of religious life, like the consumption of meatless food, fasting, keeping vigil, etc.

430. In penal institutions with a low level of security, in which the freedom of establishing contacts of the convicted persons with the external world is much more extensive, the right to satisfy the prisoners' needs is as a rule realized outside the penal institution, in local sacral facilities and at the time and in the mode that will reflect the convicted person's need.

431. In the course of 1994 and 1998, in the system of the execution of sanctions of the Republic of Croatia, there were no deprivations of the rights of persons to confess and to freely declare their religious affiliation.

432. The freedom of thought and religion is also protected by the criminal and legal provisions of Article 107 of the Criminal Code and are sanctioned as a violation of freedom of expression, and according to Article 110, as a violation of freedom of religion.

ARTICLE 19

433. Article 38 of the Constitution clearly emphasizes:

"Freedom of thought and expression of thought shall be guaranteed."

434. Freedom of expression of thought specifically includes freedom of the press and other media of communication, freedom of speech and public expression, and free establishment of all institutions of public communication.

435. Censorship is forbidden. Journalists have the right to freedom of reporting and access to information.

436. The right to correction is guaranteed to anyone whose constitutionally determined rights have been violated by public communication.

437. Like in any other democratic society, it is difficult to set the limits between freedom of expression and a desire for the citizens to be timely and thoroughly informed. It is also difficult to limit the protection of man's privacy which, being guaranteed by the Constitution and Law, represents the mainstay of any modern democratic society.

438. In Chapter XV of the Criminal Code which deals with criminal offenses against honor and reputation, the following criminal offense is specified as defamation:

Defamation referred to in Article 200.

(1) Whoever, in relation to another, asserts or disseminates a falsehood which can damage his or her honor or reputation shall be punished by a fine of up to one hundred and fifty daily incomes or by imprisonment not exceeding six months.

(2) Whoever, in relation to another, asserts or disseminates falsehood, which can damage his or her honor or reputation through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which the defamation becomes accessible to a large number of persons, shall be punished by a fine or imprisonment not exceeding one year.

(3) If the defendant proves the truth of his or her allegation or the existence of reasonable grounds for belief in the veracity of the matter he has asserted or disseminated, he shall not be punished for defamation, but may be punished for insult (Article 199) or for reproaching someone for a criminal offense (Article 202).

439. Exposure of personal or family conditions referred to in Article 201:

(1) Whoever exposes or disseminates a matter concerning the personal or family life of another which can damage his or her honor or reputation,
shall be punished by a fine or imprisonment not exceeding one year.

(2) Whoever exposes or disseminates a matter concerning the personal or family life of another which can damage his or her honor or reputation through the press, radio, television, in front of a number of persons, at a public assembly, or in another way in which its exposure of personal or family conditions becomes accessible to a large number of persons,
shall be punished by imprisonment from six months to one year.

440. The reasons for the exclusion of unlawfulness of criminal offenses against honor and reputation as specified in Article 203 of the Criminal Code:

There shall be no criminal offense in the case of the insulting content referred to in Article 199 and Article 200, Paragraph 3, the defamatory content referred to in Article 200, Paragraphs 1 and 2, the matter concerning personal or family conditions referred to in Article 201 and the reproach for a criminal offense referred to in Article 202 of this Code, which are realized or made accessible to other persons in scientific or literary works, works of art or public information, in the discharge of official duty, political or other public or social activity, or journalistic work, or in the defense of a right or in the protection of justifiable interests, if, from the manner of expression and other circumstances, it clearly follows that such conduct was not aimed at damaging the honor or reputation of another.

441. The following tables depict the number of court (both civil and criminal) proceedings instituted against journalists in the period from 1994 to the end of 1998:

CRIMINAL PROCEEDINGS

Courts from the scope of jurisdiction of County Courts	Total number of proceedings for period 1994-1998	Criminal offense	Number of finalized proceedings			
			Acquittal	Indictment	Suspension of procedure	Rejected accusation
ZAGREB	182	-defamation	-	-	-	-
BJELOVAR	3	-defamation	-	2	1	-
PULA	17	-defamation -slander -reproach for criminal offense -damage to reputation of RC	-	1	9	1
RIJEKA	24	-defamation -slander	-	-	5	1
POŽEGA	2	-defamation	-	-	-	-
SISAK	8	-defamation	-	2	4	1
ZADAR	5	-defamation	-	-	2	-
SPLIT	30	-defamation slander	1	-	15	-
VARAŽDIN	9	-defamation	1	1	2	2
OSIJEK	11	-defamation	-	-	2	-
DUBROVNIK	11	-defamation	1	-	2	-
ČAKOVEC	5	-defamation	1	1	-	-
KARLOVAC	5	-defamation -reproach for criminal offense	2	-	-	-
ŠIBENIK	-	-	-	-	-	-
KOPRIVNICA	-	-	-	-	-	-
GOSPIĆ	1	-	-	-	1	-
VUKOVAR	-	-	-	-	-	-
TOTAL	313		6	7	43	5

CIVIL PROCEEDINGS

Courts from scope of jurisdiction of County Court	Total number of proceedings for period 1994-1998	Legal provision according to the Law on Public Information	Number of proceedings with final decisions
ZAGREB	402	compensation for damage	2
BJELOVAR	7	compensation for damage	3
PULA	18	compensation for damage and correction of false information	8
RIJEKA	12	compensation for damage	-
POŽEGA	1	compensation for damage	1
SISAK	6	compensation for damage	4
ZADAR	7	compensation for damage	-
SPLIT	67	compensation for damage	2
VARAŽDIN	9	compensation for damage	4
OSIJEK	7	compensation for damage	3
DUBROVNIK	-	-	-
ČAKOVEC	2	compensation for damage	-
KARLOVAC	3	compensation for damage	1
ŠIBENIK	-	-	-
KOPRIVNICA	4	compensation for damage and correction of untrue information	1
GOSPIĆ	-	-	-
VUKOVAR	-	-	-
TOTAL	545		29

The Right Of Free Access To Media

442. Members of ethnic and national minorities or of minorities exercise their right of a free access to media on the basis of Articles 15 and 38 of the Constitution of the Republic of Croatia; Article 6 d of the Constitutional Law, Article 6 of the Law on Croatian Radio-Television, Articles 56, 59 and 64 of the Final Document of the Madrid Meeting of the CSCE of 1993, Chapter "Information", points 1,2,4 and 9; Chapter "Information", points 34, 35, 38, 40, 45 and 69 of the Final Document of the Vienna Meeting of CSCE of 1989; Chapter II, points 10, 10.1 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE of 1990; Chapter III, point 26; Chapter IV, point 32.5; Points 26, 26.1 and 26.2 of the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE of 1991; Article 11, point 1, indention a, b, c, d, e, f and g of the Document of the European Charter for Regional or Minority Languages of 1992; Article 19, points 2 and 3 of the CEI Instruments for the Protection of the Rights of Minorities and Article 9 of the Framework Convention for the Protection of National Minorities.

Croatian Radio And Television

443. At Croatian Television, a special department prepares the reports and coverage of events, life and work of national minorities for TV journals and for the program called "Prism - A Multinational Journal". This program is broadcasted every Tuesday at 17.45 on Program 2. It is a regular weekly program of fifty minutes which is prepared in Zagreb in cooperation with all the regional studios. Within the program, there is a time slot for Serbs. From time to time, the program is prepared by the regional studios and reporter centers, and in 1997 special programs from Osijek, Bjelovar, Rijeka and Split were broadcasted.

444. In the informative, documentary and musical programs of Croatian Television, particular national minorities and their cultural heritages are often represented, as well as their significant institutions and anniversaries.

445. At the end of 1997, "Televizija Dunav" (the Danube Television) started broadcasting an one-hour program on Saturdays and Sundays from the television centers in Vukovar and Beli Manastir, and a half-an-hour program on five days of the week in the Serbian language.

446. Croatian Radio, Zagreb Radio-Station, in its informative news program and the central informative and cultural daily programs, broadcasts the information important for the lives of all members of national minorities.

447. The First Program of the Croatian Radio, Zagreb Radio-Station, broadcasts a weekly thirty-minute talk and music program on cultural and educational activities called "From the Lives of Our National Minorities" both in Croatian and in the languages of the national minorities.

448. In the regional centers, in which there are significant numbers of members of national minorities, they participate in the programs of local radio and television stations in their mother tongues.

449. Radio-Station Rijeka of Croatian Radio broadcasts three times a day a ten minute news program and a twenty-minute informative program six days a week in Italian for the members of the **Italian** minority. Radio-Station Pula of Croatian Radio broadcasts a daily thirty-minute informative and mosaic program and a news program in the Italian language.

450. Radio-Station Daruvar of Croatian Radio broadcasts a daily thirty-minute program, a one-hour program every two weeks and a half-an-hour program every two weeks in the **Czech** language for the members of the national minority of Czechs. Since 1997, a half-an-hour program has been broadcasted every two weeks on Radio-Station Slavonski Brod of Croatian Radio for Czechs in the Czech language.

451. Every week, Radio-Station Vukovar of Croatian Radio broadcast an one-hour program in the Slovakian language for the members of the national minority of **Slovaks**, and on Radio-Station Našice a weekly mosaic fifteen-minute program also in Slovakian.

452. The following programs are broadcasted on Croatian Radio for the national minority of **Hungarians** in the Hungarian language: on Radio-Station Osijek, a daily twenty-five-minute informative program; on Radio-Station Vukovar, a one-hour weekly program; on Radio-Station Daruvar a half-an-hour program every two weeks, and on Radio-Station Baranja, a daily half-an-hour and a weekly on-hour program in the Hungarian language.

453. For the members of the national minority of **Ruthenians - Ukrainians,** a half-an-hour program is broadcasted five days a week on Radio-Station Vukovar of Croatian Radio in the Ruthenian or Ukrainian language, and on Radio-Station Slavonski Brod, a thirty-minute program every two weeks called "The Ukrainians in Croatia".

454. At the end of 1997, a daily twelve-hour program in the Serbian language started to be broadcasted on Radio-Stations Vukovar, Borovo, Mirkovci and Beli Manastir for the members of the national minority of **Serbs.**

455. Because of the influence on radio and television programs, the House of Representatives of the Croatian National Parliament, appointed the Council of Croatian Radio-Television. One representative of national minorities is appointed in the Council from among its representatives.

456. **The Law on Public Communications** (NN 83/96) lays down the following:

Article 3

1) Freedom of free communication is guaranteed.

2) Freedom of free communication particularly includes freedom of expressing thoughts, freedom of assembly, research, publication and dissemination of information, freedom of printing and distributing printed media and other public newspapers, as well as producing and broadcasting radio and television programs, freedom of receiving ideas and information and freedom to establish legal persons to carry out activities of public communication.

3) Natural and legal persons are allowed to publish newspapers, produce and broadcast radio and television programs and publish other public newspapers pursuant to the conditions prescribed in the Law on Telecommunications (NN 53/94, the Law on Croatian Radio-Television (NN 43/92 and 24/96) and the Law on Publishing (NN 28/83 and 26/93).

Article 4

1) No one shall have the right to use force or to misuse his or her position in order to influence the content and the flow of public communication or in any other way illegally restrict freedom of public communication.
2) Court shall decide on the violations of freedom of public communication.

457. The Criminal Code also contemplates the protection of the right of access to the media, incriminating a criminal offense of restricting printing and distributing printed materials and of broadcasting.

Article 113 lays down:

"Whoever unlawfully restricts the printing, sale or distribution of books, journals, newspapers or other printed materials, or the producing and broadcasting of radio and television programs, as well as news agencies' programs, shall be punished by a fine or by imprisonment not exceeding one year.

458. According to the data of the State Bureau of Statistics of the Republic of Croatia, no criminal offense of that kind was registered in the surveyed years.

ARTICLE 20

459. The Criminal Code of the Republic of Croatia in Chapter XIII specifies the criminal offenses against values protected by international law. These are:

- genocide (Article 156), war of aggression (Article 157), war crimes against the civilian population (Article 158), war crimes against the wounded and sick (Article 159) and against prisoners of war (Article 160).

460. Genocide as referred to in Article 156 of the Criminal Code:

"Whoever, with intent to destroy in whole or in part a national, ethnic, racial or religious group, orders the killing of members of such a group, or orders serious bodily injury to be inflicted on them, or for the physical or mental health of the members of such a group to be impaired, or

orders the forcible displacement of the population, or conditions of life to be inflicted on the group which are calculated to bring about its physical destruction in whole or in part, or orders measures to be imposed which are intended to prevent births within the group, or orders the forcible transfer of children of the group to another group, or whoever with the same intent commits any of the foregoing acts, shall be punished by imprisonment for not less than ten years or by long-term imprisonment".

461. War of aggression as referred to in Article 157 of the Criminal Code :

"(1) Whoever, regardless of whether a war has previously been declared or not, wages a war of aggression by commanding an armed action of one state against the sovereignty, territorial integrity or political independence of another state, so that such an action is performed by invasion or by an armed attack on its territory, aircraft or ships, or by the blockading of ports or shores or by the military occupation of the territory, or in some other way which denotes the forcible establishment of rule over such a state,

shall be punished by imprisonment for not less than ten years or by long-term imprisonment.

(2) The same punishment as referred to in Paragraph 1 of this Article shall be inflicted on whoever, for the purpose of waging a war of aggression of one state against another, commands or enables the sending of armed mercenary groups or other paramilitary armed forces into a state, so that these forces achieve the aims of a war of aggression.

(3) The same punishment as referred to in Paragraph 1 of this Article shall be inflicted on whoever acts according to a command for action from armed forces or paramilitary armed forces for the purpose of waging a war of aggression.

(4) Whoever calls or instigates a war of aggression shall be punished by imprisonment from one to ten years.

462. The new Criminal Code has contemplated this offense by giving a definition of a war of aggression which did not exist in the previous legislation. Based on the prohibition of the use of force from the Charter of the United Nations and the Agreement reached in the working bodies of that international organization and expressed by the resolution of December 14, 1974, a description of that criminal offense has been taken over from the Proposal for an International Criminal Code of a group of experts of the International Institute for High Studies of Criminal Science. Paragraph 4 incriminates also the calling or instigating a war of aggression.

463. Beside this provision, the Law also contemplates the criminal offense of racial and other discrimination, provided for in Article 2 of the Covenant.

CRIMINAL OFFENSE	1994			1995			1996			1997			1998		
	R	*AP*	*CP*	*R*	*AP*	*CP*	*R*	*AP*	*CP*	*R*	*AP*	*CP*	*R*	*AP*	*CP*
Genocide	*56*	*1*	*1*	*31*	-	-	*164*	-	-	*6*	-	-	*103*	*8*	*8*
War crimes against the civilian population	*231*	*147*	*145*	*171*	*59*	*55*	*155*	*52*	*48*	*168*	*37*	*30*	*96*	*28*	*26*
War crimes against the wounded and sick	-	*1*	*1*	-	-	-	-	-	-	*8*	*1*	*1*	-	-	-
War crimes against prisoners of war	*2*	*6*	*6*	*25*	*2*	*1*	*13*	*7*	*7*	-	*9*	*9*	*18*	*2*	*1*
war of aggression	-	-	-	-	-	-	-	-	-	-	-	-	*2*	-	-

LEGEND: *R-reported persons AP-accused persons CP-convicted persons*

ARTICLE 21

464. Pursuant to Article 42 and 43 of the Constitution of the Republic of Croatia, all citizens are guaranteed the right to peaceful assembly and public protest, as well as to free association for the purposes of protection of their interests or promotion of social, economic, political, national, cultural or other convictions and objectives.

465. The passage of the new legislation has created democratic conditions for a full affirmation of one of the fundamental human rights, the right to assembly, even without a preliminary approval of the police, except for the assembly of foreign citizens.

466. In the **Law on Public Assembly** (NN 22/92), these constitutional provisions are elaborated. Thus, public assembly of citizens pursuant to the Law are assemblies in the open or closed space organized for the purpose of organizing entertaining, cultural, religious, humanitarian, social, sports and other interests of citizens, as well as demonstrations, processions and similar public assembly organized with an aim to publicly express some ideas or accomplish certain political interests of citizens. The purpose of the Law, from the viewpoint of preventing the violation of public order and peace and endangering personal security of people and property is to determine the rights, the responsibilities and obligations of the organizer, as well as the police authorities in securing public assemblies and enforcing the law.

467. Moreover, on the basis of the constitutional determination that we can restrict the rights and freedoms by legislation only in order to protect the rights and freedoms of other people, the legal order and the health of the population. The purpose of the Law is to determine the measures by which public assembly may be prohibited, to establish who can not organize public assemblies or appear at such.

468. An application for a public assembly must be submitted not later than 48 hours prior to its commencement to the police administration or police station depending on the area where it is intended. Foreign natural and legal persons must submit an application for a public assembly to the competent body not later than 5 days prior to its being held. A decision on the prohibition of a public assembly shall be passed by the competent police administration, which is obligated to issue it to the organizer not later than 24 hours prior to public assembly. The organizer is entitled to lodge an appeal against such a decision to the Commission for Appeals with the Ministry of Interior *(MUP)* of the Republic of Croatia. An appeal does not prevent the execution of a decision.

469. There is no right to appeal against the decision of the Commission for Appeals of the Ministry of Interior of the Republic of Croatia, rejecting an appeal against a prohibition to hold a public assembly. However, within 30 days from the receipt of the decision, an administrative dispute may be initiated before the Administrative Court of the Republic of Croatia.

470. Pursuant to the fundamental principles of international law, there is a possibility and the conditions for organizing the assemblies of foreign citizens or foreign natural or legal persons. In that regard, the international standards and legal norms are fully implemented in the above mentioned Law.

Statistics:

471. During 1995, on the territory of the Republic of Croatia, the Ministry of Interior of the Republic of Croatia recorded a total of 4.031 public assemblies, out of which 3.449 were actually held. There were 58 disturbances of peace at those assemblies, because of which 463 persons were arrested and 273 of them were reported. The total of 230 charges of contravention and 23 criminal charges were filed.

472. During 1996, there were 3.306 registered public assemblies and 2.947 were actually held. There were 70 disturbances of peace at those assemblies, and as a result, 306 persons were arrested and 246 reported. There were 175 charges of contravention and 22 criminal charges.

473. In 1997, there were 5.238 public assemblies and 4.735 were actually held. There were 87 disturbances of peace at those assemblies, 317 persons were arrested and 298 reported. There were 205 charges of contravention and 12 criminal charges were filed.

474. In 1998 there were 2.411 public assemblies and 2.068 were actually held, and 6 were forbidden. There were 75 disturbances of peace at those assemblies and 228 charges of contravention and 11criminal charges were filed.

475. In the implementation of political freedoms and rights of domestic and foreign citizens guaranteed by the Constitution, any possibility of legalizing arbitrary conduct of the police is legally completely eliminated. Moreover, the inviolability of human dignity and of human rights is fully guaranteed, and it is at the same time an established limit of the treatment of the police.

476. The new Criminal Code sanctions the violation of the right to assembly and public protest (Article 108).

477. It should be noted that the Bill on Public Assembly is pending procedure in Croatian State Parliament.

478. The final draft of the Bill of Public Assembly also respects the constitutionally guaranteed rights of citizens to peaceful assembly and public protest, and it is specially emphasized that peaceful assembly and public protest may be held at any appropriate space.

479. This principle is based on the need to fully equalize public places and private possessions which are appropriate for holding a peaceful assembly and public protest. This provision enables holding of an assembly in a private apartment or on some other private possession.

480. However, Article 11 regulates the places on which peaceful assembly and public protest may not be held. The limitation of the right to assembly at any appropriate place follows the fundamental provision of Article 3 of the Bill, and this right is limited for the reasons of protection of freedoms and rights of other persons, legal order, public morals and health.

481. Accordingly, Article 11 of the Bill on Public Assembly states the places at which peaceful assembly and public protest may not be held, namely: near hospitals, near kindergartens and elementary schools as long as children are in them, in national parks and protected parks of nature (with the exception of the assembly which is aimed at the promotion of the protection of nature and human environment), near cultural monuments of zero category if this would threaten the protected value; at high-ways and main roads in the way which would threaten the security of road traffic.

ARTICLE 22

482. Starting from the basic assumption of Article 43 of the Constitution dealing with the right to free association guaranteed to citizens for the purpose of protecting their interests or promoting social, economic, political, national, cultural and other convictions in such a way that they are free to establish political parties, trade unions and other associations and join them or withdraw from them, the Constitution of the Republic of Croatia in Article 59 lays down that in order to protect their economic and social interests, all employees and employers shall have the right to form trade unions and freely join or leave them.

483. Trade unions may form their federations and associate in international trade union organizations. The Constitution also lays down that the formation of trade unions in the armed forced and police may be restricted by law. Pursuant to the provisions of the Constitution, the Labor Law in Chapter XIX provides for the freedom of association, establishment, operation and termination of associations.

484. "Employees have the right, without any difference and on the basis of their free choice, to establish a trade union and become its members under the conditions which may be prescribed only by statute or the rules of that trade union" (Article 159, Paragraph 1 of the Labor Law - NN

38/95, 54/95 and 65/95). The same right is guaranteed to employers. Associations may be established without any prior permission. Employees and employers freely decide on their joining or leaving an association. No one shall be put into an unfavorable position because of being or not being a member of an association or because of participating or not participating in the operation of an association.

485. Associations may form their federations or other forms of association, whereby their interests shall be linked at a higher level (associations of a higher level). "Associations and associations of a higher level have the right to freely associate and cooperate with international organizations established for the purpose of promoting the same rights and interests" (Article 162, Paragraph 3 of the Law). The Croatian trade unions use that right freely and they are members of international trade union organizations. They also independently, without any mediation of the government, cooperate with the International Labor Organization.

486. A trade union may be established by at least ten persons of legal age and of legal capacity. An employers' association may be established by at least ten legal persons or persons of legal age and of legal capacity.

487. An association of a higher level may be established by at least two trade unions or two employers' associations.

488. The operation of an association cannot be temporarily prohibited and it cannot be terminated by a decision of the executive branch of the government. Its operation can only be prohibited by a county court ruling, if it is contrary to the Constitution and law. The proceedings to prohibit the operation of an association is instituted on request of a body authorized for registration or an authorized state attorney.

489. Therefore, freedom of association in trade unions and employers' associations in the Republic of Croatia is full.

Freedom of association is limited only in the police and in the armed forces of the Republic of Croatia.

Active military officials are forbidden by the **Law on the Service in the Armed Forces** (NN 23/95) to join the trade union organizations in the armed forces. The others (i.e. military clerks and other employees in the armed forces) have the right to join trade union organizations in conformity with the general labor regulations. Article 4 of the Law on State Officials and Employees and the Salaries of Judicial Officials lays down that state officials have the right to join trade unions in accordance with labor law regulations, unless it is otherwise determined by a separate law.

490. Pursuant to this provision, there is no restriction to organize trade unions in the police.

491. Freedom of association, as a precondition of an autonomous system of collective negotiations, presupposes a prohibition of supervision of employers and their associations over the establishment and operations of trade unions and societies.

492. Every association and an association of a higher level may require court protection of the right to associate. They may require from a court to prohibit an activity which is contrary to the right to freedom of association and a compensation for damage caused by such an activity.

493. Every member of an association may seek court protection if his or her rights, laid down by the by laws or other rules of the association, are infringed within that association.

494. Although employees and employers enjoy their right to freedom of association, for the sake of security in legal operations, only the associations established and registered in conformity with the legislation may be parties to collective agreements. They must acquire the status of legal persons. Associations become legal persons on the day they are entered in the Register of Associations kept by the Minister of Labor and Social Welfare and the county office competent for labor issues.

495. Associations are entered in the Register depending on their scope of activity.

496. The associations that are active in the territory of only one county shall be entered in the Register of Associations kept by the county office competent for labor issues. The associations that are active in the territory of several counties shall be entered in the Register of Associations kept by the Ministry of Labor and Social Welfare.

497. Subsidiaries of the associations which have the powers in the legal operations shall also be entered in the Register of Associations.

498. Associations must be registered within 30 days from the day of the founder's assembly. An application for an entry must be supplemented by the decision on the foundation, the minutes of the founder's assembly, the bylaws, a list of founders and members of the executive body and the names and surnames of persons authorized for representation. The body competent for the registration shall pass a decision on the association being entered in the register and establishes in the process of registration whether the legal conditions exist for the association to be established and whether the bylaws are in conformity with law.

499. If the founders of an association do not remove the flaws in the bylaws at the request of the competent body or do not provide evidence on the fulfillment of such conditions, the competent body shall pass a decision on the rejection of the application to be entered in the register of Associations. Such a decision must contain a statement of reasons and an administrative action can be instituted against it.

500. Freedom of collective negotiation and a full autonomy of the parties to a collective agreement, to organize their mutual rights and obligations with an intervention of the government only to the level of rights guaranteeing social security of employees, requires an

absolute protection against discrimination of employees who are members of trade unions, the employees who are members of the employees' council and particularly the representatives of trade unions or commissioners.

501. "An employee must not be put in an unequal position in relations to other employees because of his or her membership in a trade union. It is particularly forbidden:

- to enter into a labor contract with a certain employee under the condition that he or she does not join a trade union or under the condition that he or she leaves the trade union;
- to terminate the work contract or to put an employee in an unfavorable condition as opposed to other employees because of his or her membership in a trade union or participation in trade union activities out of the working time, and with the consent of the employer also during the working time" (Article 180, Paragraph 1 of the Labor Law).

502. The membership in a trade union or the participation in the trade union activities must not be a circumstance on which the employer bases the decision on entering into a work contract, change of tasks performed by the employee, as well as his or her place of work, professional training, advancement, salary, social levies and termination of work contract. The employer, director or some other body, as well as the representative of the employer must not use coercion to the advantage or against any trade union.

503. **"Trade unions decide independently on the way of their representation with employers"** (Article 181, Paragraph 1 of the Law).

504. These provisions are of particular importance because the Constitution of the Republic of Croatia guarantees the right to strike. So does the Criminal Code in its Article 111.

505. Since the Labor Law lays down that only trade unions and their associations of higher level have the right to call for strike and carry it through with the purpose of protecting and promoting economic and social interests of the members, it was necessary to particularly protect the employees who are members of trade unions, trade union commissioners or representatives.

506. Strike is, like the right to associate, forbidden to military persons and persons employed in the armed forces that are directly connected with the combat readiness of the armed forces and with the regular and prescribed performance of duty of the members of the armed forces.

507. The Law on Internal Affairs (NN 73/91) in Article 104 stipulates that the employees of the Ministry of Interior do not have the right to strike if it would make it impossible to carry out the protection of order established by the Constitution and the protection of life and personal security of people and property, the protection of state border and inviolability of the state territory.

508. The right to strike is not forbidden in the state administration but it is restricted in public services in the cases which refer to the security and protection of life and health of people and free performance of certain public activities.

509. The Law on Health Protection thus authorizes the Minister of Health to undertake the measures not established by law in extraordinary circumstances when the security of providing health protection of citizens would be endangered.

510. The Law on Croatian Railways, the Law on Forests and the Law on Croatian Power Utility also provide for the ways in which the necessary operations need to be undertaken at the time of a strike, in order to enable an undisturbed performance of activities. Some collective agreements, like the Collective Agreement for Water Supply Activities lay down the regulations of the tasks ensuring the minimum life and work conditions for citizens and for the operation of other enterprises without which it is not possible to carry out a strike.

511. At present, the following associations of trade unions are registered at the Ministry of Labor and Social Welfare of Croatia:

- 23 associations of trade unions of higher level,
- 1 employers' association of higher level,
- 136 trade unions and
- 22 employers' associations.

512. As many as 120 trade unions are registered at county offices.

513. The Labor Law lays down that trade unions or their associations of higher level have the right to call for strike and to carry it out with a purpose of protecting and promoting economic and social interests of their members. A strike must be announced to the employer or the employers' association against which it is directed.

514. A strike must not commence prior to the termination of a conciliation procedure or before other procedure for peaceful resolution of dispute regarding which the parties had agreed was carried out (Article 210 of the Law).

Unless the parties have entrusted their collective work dispute settlement to arbitration, a conciliation procedure must be carried referred to in Articles 203 to 206 of the Labor Law.

515. Not later than on the date of the strike announcement, trade unions or associations of trade unions of a higher level must carry out the operational rules for the jobs which must not be interrupted during the strike. These rules are passed in accordance with the provisions of the mentioned law (Article 210, Paragraph 5 of the Law).

516. The mode of passage of the regulations that may not be interrupted is established in Article 212 of the Labor Law.

517. On the employer's proposal, the trade union and the employer agree to develop and pass the rules on the production sustainability and necessary operations that must not be interrupted during the strike or an exclusion from work.

518. The rules particularly contain the provisions on the operations and the number of employees which have to be carried out at the time of a strike or an exclusion from work, with an

aim of recovering the operation immediately after the completion of the strike (productionally sustainable operations) or with an aim to carry out the tasks that are extremely necessary in order to prevent life, personal security or health of the population (urgent tasks) to be endangered.

519. By determining these tasks, the right to strike must not be prevented or significantly restricted.

ARTICLE 23

520. **In marriage, both spouses are equal.**

521. Marital relations are regulated in such a way that the spouses spontaneously determine the address and agree on the upbringing of their children. Each spouse decides independently on his or her work and profession.

522. According to the provision of Article 35 of the Constitution, all citizens shall be guaranteed the respect for and legal protection of personal and family life, dignity, reputation and honor. Article 81 provides that the family is under special protection of the state. Marriage and matrimonial relations in a marriage, in common law marriages and in family are established by the Family Code.

523. Marriage is a union of life of a woman and a man regulated by law. Marriage may be entered into by concurrent statement of a woman and a man. It may be entered in a civil and in a religious form. Marriage may be contracted in a civil form before a registrar, and in a religious form with the effects of a civil marriage before the representative of the religious community, which has regulated legal relations on this with the Republic of Croatia.

524. Marriage exists if at the moment of its solemnization, the following preconditions are fulfilled: the spouses are of different gender, they have stated their consent to enter into marriage, that a marriage in civil form was entered into before a registrar or that a marriage in religious form is entered into in accordance with the provisions of the Family Code.

525. Marriage may not be contracted by a person under eighteen years of age. For justified reasons, a court may, in an *ex parte* procedure, allow a person who is sixteen years old to enter into marriage if the court has established mental and physical capability of this person for marriage. An application for a permission to enter into marriage may only be submitted by a person for whom the permission is issued. Prior to making the decision, the court will interview the minor applicant and his or her parents or guardian, ask the social care center for its opinion and examine the circumstances that are important for the decision to be made.

526. A marriage may not be contracted by a person divested of legal capacity or incapable to reason. Exceptionally, the court may allow, in non adversary proceedings, contracting of marriage to such a person if the court determines that he or she is capable to understand the significance of marriage and obligations stemming from it, and if the court determines that marriage is in his or her or her interest. The proposal for such a decision may be submitted only by the person regarding whom the permit is being issued.

527. Blood relatives in direct line, brother and sister, half brother and half sister, a child with a sister or a brother of his or her arent, children of brothers and sisters and of half brothers and half sisters may marry each other. Adopted parent and adopted child may not marry each other. A person who is already married may not marry.

528. A marriage contracted contrary to these provisions is not valid and it can be annulled in a court proceeding.

529. According to the provisions of the Family Code, both spouses are equal. They mutually agree on their place of residence, on the upbringing of their children and on how they will carry out the affairs related to family union. When entering into marriage, the spouses may agree on the surname they will use in the future. Each spouse decides independently on the choice of his or her work and occupation.

530. The responsibility of parents for the upbringing of their children and the endurance of their rights to a full and harmonious development is laid down in the Constitution of the Republic of Croatia. Family legislation regulates the relations between parents and children by the legal institute of parental care, which is in accordance with modern legal regulation of this relationship. Parental care includes the protection of personal and property rights and interests of the child, as well as the responsibility of parent for child's well being. Parental care can be limited or taken away only by a decision of competent bodies (a court or a social welfare center) for the reasons and in the way prescribed in the Family Code.

531. A parent may not wave parental care, and it may be limited or parent may be deprived of it only in some legally prescribed cases.

532. A social welfare center may decide, ex officio or upon parent's request, that only one parent exercises care for the child, if the other parent is prevented, deprived of legal capacity or threatens the well being of the child with his or her acts.

533. The novelty of the Code is the fact that it provides for the possibility that the child has the right to seek protection of his or her rights before competent bodies which must make inquiries about the case and undertake measures for the protection of the rights of the child. Regardless of the fact whether they live together or separately, parents take care of the child equally, jointly and in agreement, except when otherwise prescribed in the Code. In the case of changed circumstances, the parent who does not live with the child has the right to request the social welfare center to pass a new decision. The Law provides for the right of the separated parent to meet the child and maintain personal relations with the child. The decision regarding the meetings and such maintenance of personal relations with the child must correspond to the

child's interests, regardless of whether the parents have agreed on it or it is a decision of the competent body. Meetings and maintaining of personal relations of the child with the parent which lives separately may be limited or prohibited only for the reasons of the protection of child's well-being.

534. Since the Family Code assumes common responsibility of parents even upon the termination of joint life, the social welfare center or the court may decide that the parent with whom the child is not living carries out certain duties, such as taking care of child's health, education, etc.

535. Problems appear when there is not sufficient consensus between the parents about the well-being of their children. This problems can be solved in the proceedings which take place prior to the divorce - mediation - in which professional workers (i.e. social worker, psychologist, lawyer) in the social welfare centers have a duty to find the most favorable solution for the child. In any case, the decision of the competent body must be in accordance with the child's interests. Therefore, prior to making a decision, the court must ask for a professional opinion from a social welfare center and examine all the circumstances with regard to both parents. However, the child's well-being must remain the key criterion, regardless of the parents' agreement.

536. It is possible to entrust the child to the care and upbringing of a third person or an institution if the parents are not capable of the task. In that case, if the parents fulfil the legislative preconditions, they still remain the child' legal representatives and providers.

ARTICLE 24

537. The Constitution gives parents the duty to bring up, to support and school their children. The Family Code contains the provisions on the right of parents to care about the personality, rights and interests of their children.

538. In addition to the protection of the rights of the child in its internal legislation, the Republic of Croatia is a party to the UN Convention on the Rights of the Child, enacted on November 20, 1989. Accordingly, the Government of the Republic of Croatia passed the **National Program of Activities for Children** in the Republic of Croatia. Its implementation is supervised by the Council for Children. The Council for Children was established by a decision of the Government of the Republic of Croatia of October 1, 1998 (NN 132/98).

539. The position of the child in the family, regulated by family law is legally formulated and sanctioned by the recognition of the rights of the child.

540. The system of the rights of the child includes the changes in the content of the relations between the parents and the child, and assumes new legal institutes (for example, the responsibility of parents) and new legal standards (interest – well-being of the child). These solutions take account of the modern measures as a reflection of the need for a different, better quality and more appropriate protection of children, generally and in relation to their parents.

The most significant rights of the child are the following:

- the right to care for health and life;
- the right to security and upbringing in a family;
- the right to live with his or her parents;
- the right to choose school and profession.

541. Parents are considered to be the most suitable persons to ensure the realization of the rights or their child. They must care about his or her life and health, they must bring up the child and take care about his or her education, they must protect the child from humiliating treatment and bodily punishment by other persons, they must take care for the child and for all his or her needs, and they must not leave a child of pre-school age without supervision of an adult.

542. It is a novelty that parents have the right to monitor the child in his or her relations with other persons, for the purpose of appropriate upbringing. They have the right and duty to limit a child under sixteen years of age in going out at night without them or other adult to whom they trust accompanying the child. Going out between 11 p.m. and 5 a.m. is deemed to be going out at night.

543. Parents are legal representatives of the child and have the duty and right to care for the personality, the rights and interests of their children, regardless of where they ought to be protected, including both judicial and administrative proceedings. The parents' role is also emphasized in their legislative obligation to attend the parents' meetings in schools.

544. In addition, parents are authorized by law to represent their children, to care for their property and to provide for them. The restrictions of the parents' guidance are strictly determined by law and carried out by the competent bodies exclusively in the children's interests.

545. The decrees on the measures for the protection of personal and property interests of children are made by the social welfare agencies or courts.

546. Parents have the right to a court protection in the case when a third person keeps their child without authorization.

547. If parents act contrary to the interest of their children, the social welfare agencies or courts have a legal right to intervene by pronouncing the corresponding measures of the family law protection. If the necessary legal preconditions are fulfilled, the parental guidance is substituted, limited or excluded. The Family Code prescribes the following measures of family law protection:

- a warning to a parent indicating mistakes and failures in the care for and upbringing of the child,
- supervision over parental care,
- deprivation of the right to live with the child and bring up the child,
- sending of the child with behavioral disorder to social care institution,
- deprivation of parental care.

548. The first two measures are preventive, and they only supplement parental care, while by the implementation of other measures the child is separated from parents and in this way parental care is limited or excluded.

549. For the purpose of providing professional assistance to parents to bring up their children properly, the Law on Social Care regulates the possibility to establish counseling centers providing assistance for parents of children with developmental difficulties, behavior disorders, etc.

550. In the Republic of Croatia the **Law on State Registers** (NN 96/93) provides for an obligation registering the fact of birth in a Register of Births containing the following data: name and surname, gender, day, month, year and hour of birth, and citizenship. In addition, the Register of Births must contain the data on child's parents: name and surname, mother's maiden name, date and place of birth, citizenship, permanent residence and address. In such a way, apart from keeping the updated data, the identity of the child is protected, as well as the right to know at any time who the child's parents are.

551. The obligation of registering the child depends on where the child is born. If it is born in a health institution, then the institution is obligated to register the child. If the child is born outside a health institution, then the father is obligated to register the child or the person in whose apartment the child is born or the mother, when she recovers from labor. In any case, every child must be registered with the Registrar of the Registrar's Office in the place of its birth.

552. It is also prescribed by law that birth registration must be done within 15 days from the day of birth. Since every child must be registered, it is also the case with a still-born child. In that case, the period of registration is 24 hours after the birth. The obligation of keeping the Registers of Birth and entering every birth protects every child's identity.

553. Every citizen of the Republic of Croatia is guaranteed the right and duty to use his or her personal name, consisting of the name and surname. An obligation derives from this right or duty for every child to be given a personal name. The child's surname must also be determined. The child's parents agree on the first name that is given to the child. As for the surname, the parents may agree that the child has the surname of one or of both parents. In most cases in Croatia, the child is given the father's surname. As for the first name, the parents are obliged to give it in agreement and if one of them is not alive, then all the rights regarding the child's first name lay with the other parent. If parents do not agree on the first name of the child, if they are not alive or cannot exercise their parental care or if they are unknown, the child's first name shall be given by the custodian, with the consent of the social care center. In these cases the time limit for the registration it with the competent Registrar is two months from the day of the child's birth.

554. In the case of adoption of the child, when adoption with family relations effect was carried out, the first name of the child is determined in accordance with the provisions of a separate law. The personal name of an adoptee is given by adoptive parents, who are entered in the Register of Births as parents. It is important to mention that after this type of adoption, it is not allowed to challenge paternity or maternity.

555. In the case of parental adoption, adoptive parents may give a name to the adoptee. The adoptee gets adoptive parents' family name, except when adoptive parent decided that the adoptee shall keep his or her family name or that he or she will add adoptive parent's family name to his or her family name. Adoptive parents may be registered in the Register of Birth as parents. If the adoptee is older than twelve years, it is necessary to have his or her consent regarding the change of first name and surname, as well as the entry of adoptive parents as parents. Challenging of maternity or paternity is not allowed in the case of parental adoption, if adoptive parents are registered as parents.

556. We can not be satisfied with the protection of neglected or abused children. The implementation of the two measures of family law protection occurs only when the severe consequences for a regular psychophysical development of the child have already taken place (serious bodily injuries, sexual abuse, severe educational neglect, malnutrition, etc.)

557. The protection of such children involves an increased engagement of nongovernmental organizations at the local level. They should enjoy the support of both national and local governments and work in close cooperation with them.

558. Such activities have already taken place in Split (the association called "Mirta"), in Zadar (Family Counseling Center, Caritas). Along with the prevention, the local nongovernmental projects involve direct work with the victims of violence (counseling centers, emergency telephones, and shelters for the victims of family violence, etc.)

559. One of the most sensitive groups of children are the children deprived of parental care.

560. Pursuant to the Family Code, children are considered to be deprived of parental care if their parents are:

1. dead, unidentified or of unknown residence for more than a year,
2. deprived of parental care,
3. deprived of legal capacity or have not acquired legal capacity yet,
4. absent and are not in the position to regularly care for their child but have not entrusted it for care and upbringing to another person who, according to the custodial body, fulfils the conditions for a foster parent.

561. A child deprived of any parental care is placed in foster care and is given a foster parent.

562. According to the data of the centers for social welfare, on December 31, 1996, 2.242 children were placed in foster care.

563. The most suitable form of providing for children without parental care and for children whose parents are not ready to undertake their parental duties and are not likely to be able to do so soon, is adoption. The main precondition for adoption is that it must be beneficial for the child. In order to establish it, it is necessary for the parents to give their consent or that the Family Code provides that it may be instituted without the parents' consent.

564. The placement of children in foster care or in a children's home is a measure meant for children who are with no parental care and for children whose development is jeopardized by the family situation.

565. According to professional opinion of the Ministry of Labor and Social Welfare, the placement of children in foster care is a more suitable way of providing for children than the placement in a children's home.

566. Within the social welfare network in the Republic of Croatia, there are fourteen homes for children without the appropriate parental care. The existing homes are of large capacities (about 120 children). The average stay of children in such homes is four years.

567. The Constitution of the Republic of Croatia provides that special social care ought to be given to invalids, particularly children.

568. The total number of physically and mentally disabled and handicapped children in the Republic of Croatia, placed in the centers for social welfare is around 8.865 (according to the data of the Ministry of Labor and Social Welfare on December 31, 1996).

569. At present, there are 23 public social welfare institutions in Croatia, providing for physically and mentally deprived persons.

From that number:

- two institutions are for children and youth with corporal invalidity (in Oštro Kraljevica and in Zagreb),
- one institution for persons with damaged eyesight (in Zagreb),
- three institutions for persons with damaged hearing (in Zagreb, Rijeka, Split),
- seventeen institutions for persons with mental disorders (three in Zagreb, one in Velika Gorica, one in Lug near Samobor, one in Stančić near Dugo Selo, one in Šibenik, one in Sv. Filip Jakov, two in Split, one in Vodnjan with its subsidiary in Pula, one in Rijeka, one in Zajezda, one in Jaškov, one in Daruvar, one in Dubrovnik and one in Vrlika).

570. Due to very specific problems connected with the handicap of a child and with different and increased needs of the entire family, the Law on Social Welfare (NN 73/97) provides for a new right of a severely disabled child - the right to a personal disability allowance. Such children are thus able to realize their personal (as legal persons) right to assistance. The purpose of this allowance is to enable disabled children to remain in their families.

571. We would also like to mention children with behavioral problems. Namely, criminal legislation distinguishes the notion of a child (a person younger than 14 who is not criminally liable) and the notion of a minor (a person from 14 to 18 years of age who is criminally liable).

THE NUMBER OF REGISTERED CHILDREN AND MINORS IN CENTERS FOR SOCIAL WELFARE WITH BEHAVIORAL PROBLEMS

Year	Number of children	Number of minors	Total
1994	1.811	5.076	6.887
1995	2.443	6.246	8.689
1996	1.947	5.503	7.850

572. In Republic of Croatia a new Law on Juvenile Courts and Family Code, prescribed new care and support to younger persons of age (18-21 years of age), so there are Statistical data for 1997 and 1998 about that category for which Centers for social welfare take care, also.

Total regarding the age			Minors	
Year	0-18	18-21	man	woman
1995	7.303	1.445	6.518	785
1996	8.763	2.963	7.672	1.092

Data obtained at the Ministry of Labor and Social Welfare.

573. In the case of children with behavioral problems, including those who have committed some criminal offenses and minors with behavioral problems who have not committed criminal offenses or a report has been rejected by the application of the principle of appropriateness, the measures of family law protection are applied.

Education

574. The educational system in the Republic of Croatia represents the largest social system, encompassing 3.500 educational institutions with about 950.000 children and youth included in the organized pre-schools, primary and secondary schools, institutions of higher education, universities, adult education institutions, with around 75.000 employees in education.

575. Primary education in the Republic of Croatia is compulsory and free for all children. Every child is offered pre-school education, secondary and high education under the same conditions. Efforts have been made for every child to be offered the kind of education that suits his or her capacities best. Up to now, the most obvious classification of the curricula has been

into the programs for average children and for the children with difficulties in development. Lately, there has been more and more discussion about the necessity of pedagogical and school pluralism, about the need to have different types of schools and diverse curricula along the entire vertical line of the educational system (from primary to university education). In the area of education, new laws are passed which provide for the measures and ways of best selecting the pre-school, school and university programs, in accordance with the possibilities, needs and capacities of children and youth.

576. In the Republic of Croatia, there is legislation providing for the rights and possibilities of establishing schools and education for citizens. There are laws which lay down the conditions to establish pre-school institutions, primary and secondary schools with different programs. Articles 65 and 66 of the Constitution of the Republic of Croatia provide for the possibility of establishing private schools and learning institutions.

577. On the basis of constitutional provisions, special laws are passed which specify the possibility of establishing of educational institutions with different programs. According to the present legislation, natural and legal persons and religious communities, having obtained an approval from the Ministry of Education and Sports, may establish pre-school institutions, primary and secondary schools. Special care is taken of gifted children, children with developmental disabilities, children of national groups and minorities, children of the Croatian citizens abroad, as well as of pre-school programs which is compulsory for all children of the age of six.

578. Primary school is compulsory for all children from 6.5 to 15 years of age. We distinguish two educational periods: class teaching up to fourth grade and subject teaching from fifth to eighth grade The curriculum for primary schools is unified. The compulsory primary education is carried out in 787 central and 1.768 branch primary schools. There are four private primary schools in the Republic of Croatia. As many as 418.318 students (98%) attend primary schools. They employ 36.555 people (26.706 teachers and associates and 9.849 other employees. After the military actions "Flash" and "Storm", the operation of 91 primary schools has been restored in the liberated regions (38 central and 53 branch schools), with 11.903 students The enrolled students mostly complete their primary education (about 98%) and then enroll in secondary schools (about 94%).

579. Students who complete their primary and compulsory education in the Republic of Croatia are not trained for any production activity nor are they particularly directed to any particular secondary school. The enrollment in the secondary school program largely depends on the achieved success and the student's choice.

580. Within the secondary education, in the school year of 1996/97 there were 361 secondary schools as follows:

- 70 independent high schools,
- 95 technical and related four-year program schools,
- 81 craft, industrial and other vocational schools (with different related programs) lasting for three-years,

- 86 mixed secondary schools (with several different programs on islands and in smaller settlements),
- 21 art schools,
- 8 private schools (two with the program in economy, one in catering, one for dental technicians, three high schools and one of applied arts),
- 2 high schools with sports programs.

There are 199.554 students (54,53%) attending these schools.

581. Most vocational schools have four-year technical or three-year industrial and craft programs. There are 18.034 employees working at all secondary schools.

582. After the military actions of *"Flash"* and *"Storm"*, the operation of 11 secondary schools with 1.728 students has been restored in the liberated areas of the country.

583. According to the provisions of the Law on Personal Names, every person has the right to change his or her personal name and so has a minor. A minor's name can be changed on request of parents or adoptive parents and if they cannot agree, the consent is given by the competent custodial body. A child who is older than ten years gives its consent. The same applies for children born out-of-wedlock but with the father's identity having been established.

Citizenship

584. Regarding the right to citizenship, the Law on Croatian Citizenship is based on the principle of origin, although a child may also acquire Croatian citizenship in other ways. Therefore, the basic principle of acquiring citizenship is the citizenship of the child's parents, so that if they are Croatian citizens, the child shall also acquire Croatian citizenship.

585. A child shall acquire Croatian citizenship by origin in various cases: if both of its parents were, at the time of the child's birth, Croatian citizens; if one of the child's parents was, at the time of its birth, a Croatian citizen, and the child was born in Croatia; if the child was born abroad, and one of its parents was, at the time of the child's birth, a Croatian citizen, and the other was a stateless person or a person whose citizenship was unknown; if the child was adopted with kinship legal effect by Croatian citizens regardless of whether the child is a foreign citizen or is a stateless person; if the child was born abroad and one of its parents was, at the time of the child's birth, a Croatian citizen, under the condition that by the age of 18, the child is signed up for registration as Croatian citizen by the authorized body of the Republic of Croatia abroad or in Croatia or if the child establishes residence in the Republic of Croatia, it shall be deemed to be a Croatian citizen from the moment of its birth.

586. However, in order to protect the interests of children, a child has the right to be a Croatian citizen if it was born or found on the territory of the Republic of Croatia and if both of its parents are unknown or are persons whose citizenship is unknown or are stateless persons. In such a case, the child shall lose Croatian citizenship acquired by origin if it is subsequently established and by the age of 14 that both the child's parents are foreign citizens.

587. Apart from origin, children may acquire Croatian citizenship by naturalization. The children of Croatian emigrants may acquire this right.

588. Children, who may acquire Croatian citizenship, may also lose it under certain conditions. A child's citizenship may be terminated by revocation if it is asked by both parents whose citizenship was terminated by revocation or if Croatian citizenship was terminated by revocation to one parent and the other is a foreign citizen anyway. Pursuant to these provisions, a person is considered to be a child up to the age of 18. Croatian citizenship shall be terminated by revocation for a child by the age of 18 upon the petition of adoptive parents who are foreign citizens and have adopted the child with kinship legal effect.

589. Beside revocation, Croatian citizenship may be terminated for a child by renouncement. It is possible upon the petition from both parents whose citizenship was terminated by renouncement or if Croatian citizenship was terminated in such a way for one parent and the other is a foreign citizen. Croatian citizenship shall be terminated by renouncement upon the petition by the adoptive parents, for a child by the age of eighteen, who was adopted with kinship legal effect by foreign citizens.

590. However, if a child loses Croatian citizenship in any of the ways described above, either by revocation or by renouncement, it may acquire it again at the age of 18 if it resides in the Republic of Croatia and if he or she issues a written statement stating that he or she considers himself or herself a Croatian citizen. These two conditions have to be fulfilled cumulatively.

591. It is very important to mention that in spite of the fact that a petition to acquire citizenship for a minor under the age of 18 is filed by a parent, issuing a written statement that he or she considers himself or herself a Croatian citizen, in the case of acquisition or termination of citizenship, the consent of a child older than 14 years of age is mandatory.

ARTICLE 25

592. Pursuant to Article 44 of the Constitution, every citizen of the Republic of Croatia shall have the right, under the same conditions, to take part in the conduct of public affairs and have access to public service.

Article 45 of the Constitution lays down:

"All citizens of the Republic of Croatia who have reached the age of eighteen years shall have universal and equal suffrage. This right shall be exercised at direct elections by secret ballot.

593. In elections for the Croatian National Parliament and the President of the Republic, the Republic of Croatia shall ensure suffrage to all citizens who at the time of the elections find themselves outside its borders. Therefore, they may vote in the states in which they find themselves or in any other way specified by law."

594. The right to proportional representation in the Parliament of the Republic of Croatia and in the representative executive bodies of local self-government (Article 16 of the Constitutional Law).

595. Members of ethnic and national communities and minorities shall exercise their political rights like all other citizens, through regular systems institutions on the basis of the following legislation: The Constitution, the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Minorities or Minorities and the Constitutional Law on Temporary Nonapplication of Certain Provisions of the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic and National Communities and Minorities in the Republic of Croatia, the Law on Elections of Representatives to the Parliament of the Republic of Croatia and the Law on the Amendments of the Law on Elections of Representatives to the Parliament of the Republic of Croatia (NN 68/95), the Law on the Election of Representatives of Bodies of Local Self-Government and Administration Units (NN 90/92, 69/95 and 59/96, Articles 10, 11, 28 and 65) and the Law on Political Parties.

596. Members of ethnic and national communities and minorities have elected eight representatives to the House of Representatives of the Croatian Parliament, through special electoral units and their own parties. Three representatives are elected from the Serbian political parties, and one from Italian, Hungarian, Czech and Slovakian, Ruthenian and Ukrainian and German and Austrian ethnic and national communities and minorities. The representation of the members of ethnic and national communities and minorities in the bodies of local self-government is in proportion to its share in the total population of a local self-government unit.

597. The Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic and National Communities and Minorities in the Republic of Croatia in Article 18 lays down the following:

Members of ethnic and national communities and minorities who participate in the population of the Republic of Croatia with more than 8% have the right to be represented in proportion to their share in the total population in the Parliament and the Government of the Republic of Croatia and in the bodies of the supreme judicial authority.

Members of ethnic and national communities and minorities, whose share in the population of the Republic of Croatia is less than 8%, have the right to elect the total of five representatives in the House of Representatives of the Parliament of the Republic of Croatia.

Members referred to in Paragraph 2 of this Article are representatives of all ethnic and national communities and minorities which have elected them and are obligated to protect their interests.

The manner of elections and the withdrawal of representatives referred to in Paragraph 1 and 2 of this Article shall be laid down by law and other regulations providing for the elections in the Republic of Croatia.

The representation of ethnic and national community and minority referred to in Paragraph 1 of this Article in other bodies of state authority of the Republic of Croatia is laid down in the Law on the Organization of State Authority.

The implementation of Paragraph 1 and 5 of this Article pursuant to Article 2 of the Constitutional Law on the Temporary Non Implementation of Individual Provisions of the Constitutional Law on Human Rights and Freedoms and on Ethnic and National Communities or Minorities was cancelled until the publication of the results of the first census in the Republic of Croatia.

598. In Article 19, the Law lays down the following:

Members of ethnic and national communities or minorities have the right to be represented in the bodies of local self-government in proportion to their share in the total population of a particular unit of local self-government.

The right referred to in Paragraph 1 of this Article is provided for by the law which lays down the organization of local self-government and the bylaws of the local self-government.

599. The Law on Elections of Representatives to the Parliament of the Republic of Croatia, in Article 2, lays down the following:

"Representatives shall be elected to a four year term by Croatian citizens who are eighteen years of age or older in direct elections by secret ballot."

Article 3:

"A Croatian citizen of eighteen years of age or older may be elected a representative."

600. The Law on Amendments to the **Law on Elections of Representatives to the Parliament of the Republic of Croatia** (NN 68/95) contemplates in Article 58a:

"Until the announcement of the results of the population census of the Republic of Croatia, the provisions of Article 10, Article 22, Article 23, Paragraphs 1 and 3, as well as of Article 26 of this Law shall not apply for the elections of representatives to the House of Representatives."

In the House of Representatives, in the period referred to in Paragraph 1 of this Article, 127 representatives are elected.

At the elections for the House of Representatives, in the period referred to in Paragraph 1 of this Article, members of ethnic and national communities or minorities have the right to elect 8 representatives to the House of Representatives.

Members of the Serbian ethnic community or minority shall elect three representatives in a voting unit which shall make up the territory of the entire Republic of Croatia. Among all candidates running in the voting unit, the three who receive the largest number of votes cast shall be elected. If it cannot be determined which three received the largest number of votes because

candidates receive the same number of votes, the elections shall be repeated. Members of the Hungarian, Italian, Czech and Slovak, as well as of the Ruthenian and Ukrainian and of German and Austrian minorities shall elect each one representative to the House of Representatives in special voting units which are determined by the Law on Voting Units for the House of Representatives of the Parliament of the Republic of Croatia according to the provisions of Article 23, Paragraph 4 of this Law. If the representation of ethnic and national communities or minorities called for in Paragraph 3 of this Article is not achieved at elections for representatives to the House of Representatives, the number of representatives of the House of Representatives shall be increased by one place in order for the called for representation to be achieved, and the member of the certain community or minority who was a candidate but not elected on the state list which received the most votes shall be considered an elected representative."

601. **The Law on the Election of the President of the Republic** prescribes in:

Article 1

The President of the Republic of Croatia shall be elected by Croatian citizens of 18 years of age (hereinafter: voters) at direct elections by secret ballot for a term of 5 years.

Article 2

Croatian citizens of 18 years of age may be elected for the President of the Republic of Croatia.

Article 6

Freedom of choice and secrecy of voting is guaranteed to all voters.
Nobody shall be called to account because of voting or because of not having voted.
Nobody can require from a voter to announce his or her voting.

The Law on the Election of Representative Bodies of Local Self-Government and Administration Unit in Article 2 lays down the following:

"Members of the representative bodies of local self-government and local self-government and administration units shall be elected by Croatian citizens over 18 years of age with the place of residence on the territory of local self-government units and for whose representative bodies the elections are called and who are recorded in the electors' register in the place of residence."

Article 3

"Any Croatian citizen over 18 years of age residing in a local unit of self-government and entered in the electors' register may be elected member of the representative body of this self-government unit.

Article 10

"Croatian citizens who are members of ethnic and national communities and minorities making more than 8% of the electoral body of the local self-government unit or local self-government and administration unit shall have the right to be represented in the representative body of the same local self-government unit or local self-government and administration unit.

Members of ethnic and national communities or minorities who make less than 8 % of the electoral body at the national level have the right to be represented in the representative body of the local self-government unit or the local self-government and administration unit in the way provided for in the bylaws of the same local self-government units or local self-government and administration units".

Article 28

"If the representation of ethnic and national groups or minorities is not achieved in the elections in accordance with the provisions of this Law, the number of representatives in local self-government bodies or local self-government and administration units will be increased to reach the number necessary to achieve the required representation. The members of a certain minority who were its candidates in the lists of representative bodies of local self-government units or unit of local self-government and administration and were not elected, shall be considered elected in the order and in proportion to the success of a particular list in the elections.

602. The Law on Referendum and Other Forms of Direct Decision-Making and Declaration of Citizens in Article 5 lays down the following:

"Citizens who have the right to vote (hereinafter: voters) and whose place of residence is in the Republic of Croatia and the voters whose place of abode is abroad or happen to be there at the time the referendum is held, have the right to participate in the national referendum.

Voters, whose place of residence is on the territory of the local self-government unit for which the referendum is called, have the right to participate in the local referendum.

Voters, whose place of residence is on the territory on which a certain form of individual decision-making and declaration takes place, have the right to participate in an advisory referendum, local citizens' meetings and the submission of petitions."

603. No action has been brought and no court decision has been made regarding the regulations that provide for the implementation of provisions of this Convention.

604. All citizens of the Republic of Croatia have the right to participate in carrying out public affairs and have the right of access to public services as stated in Article 2 of the Covenant.

ARTICLE 26

605. **Article 46 of the Constitution lays down that every citizen shall have the right to submit petitions and complains, give proposals to government and other public bodies and receive replies from them.**

606. In Article 14, the Constitution of the Republic of Croatia clearly provides:

Citizens of the Republic of Croatia shall enjoy all rights and freedoms, regardless of race, color, sex, language, religion, political and other opinion, national or social origin, property, birth, education, social status or other properties.

All shall be equal before the law.

607. The Constitution further provides that in the Republic of Croatia, the member of all nations and minorities shall be equal.

608. The members of all nations and minorities shall be guaranteed freedom to express their nationality, freedom to use their language and script and cultural autonomy.

609. Freedoms and rights may only be restricted by law to protect the freedom and rights of other people and the public order, morality and health.

610. All citizens and aliens shall be equal before courts, government bodies and other bodies vested with public powers.

611. The Bar as an autonomous and independent service shall provide citizens with legal aid, in conformity with law.

612. In Article 29 of the Constitution, it is laid down:

Anyone suspected or accused of a criminal offense shall have the right:

- to a fair trial before a competent court specified by law;
- within the shortest possible term to be informed of the reasons for the charges preferred against him or her and of the evidence incriminating him or her;
- to a defense counsel and free communication with him or her, and to be informed of his or her right;
- to be tried in his or her presence if he or she is accessible to the court, and to defend himself or herself alone or with the assistance of the defense counsel whom he or she has chosen.

A charged and accused person shall not be forced to testify against himself or to admit his or her guilt.

Evidence illegally obtained shall not be admitted in court proceedings.

613. **Deprivation of liberty may be based only on a court order (Article 24 of the Constitution).**

Article 24 of the Constitution lays down that "no one shall be arrested or detained without a written court order based on law. Such an order shall be read and served on the arrested person at the moment of arrest.

The police may without a court order arrest a person reasonably suspected of having committed a serious criminal offense defined by law. Any person arrested or detained shall immediately be informed in a way understandable to him or her of the reasons for arrest and of his or her rights determined by law.

Any person arrested or detained shall have the right to appeal to the court, which shall without delay decide on the legality of the arrest."

614. Apart from that, the basic duties, the scope and the powers of the police are determined by the Law on Criminal Procedure ("LCP").

615. Thus Article 177, Paragraph 1 of the LCP, define the basic purpose and the content of activities of the internal affairs from the criminal and legal aspect ("if there are grounds for suspicion that a criminal offense subject to public prosecution has been committed, the police authorities shall be bound to take necessary measures aimed at discovering the perpetrator, preventing the perpetrator or accomplice from fleeing or going into hiding, discovering and securing traces of the offense and objects of evidentiary value as well as gathering all information which could be useful for successfully conducting criminal proceedings".)

616. In Paragraph 2 of the same Article, the bodies of internal affairs are authorized to undertake necessary measures and actions in order to carry out these tasks (to seek information from citizens, carry out necessary inspection of means of transportation, passengers and luggage, restrict movement in a certain territory for the time that is absolutely needed, undertake necessary measures regarding the establishing of the identities of persons or objects, issue an arrest warrant or warrant for seizure of things and undertake other necessary measures and actions.

617. Police authorities may summon citizens and the reason for summoning must be noted in the summons. A person who fails to appear may be brought in by force only if he or she was informed of it in the summons. On the basis of the collected information, police authorities shall draw up a criminal offense report.

618. In that regard, very significant is the provision of Article 95 of the LCP, pursuant to which police authorities are entitled to arrest a person for any reason provided for in Article 102 of the LCP (it contains the provisions about detention which may be mandatory or optional). Police authorities shall bring such a person without delay to the competent investigating judge.

619. If because of some inevitable obstacles it is not possible to bring the person within 24 hours before the investigating judge, the authorized person is obligated to provide a special explanation.

620. An official person is obligated to inform the family of the arrested person within 24 hours, unless the arrested person objects to that.

621. Apart from an arrest, the official persons have the right to keep the arrested person in order to protect freedom and rights of other persons and to protect legal order, public moral and health. Such a detention may last not longer than 24 hours and the authorized person is obligated to inform the arrested person about the reasons for the arrest and within 6 hours from the arrest, to also inform the family of the arrested person or another person specified by the detainee. A decision on detention shall be issued, against which the detainee has the right of appeal. The terms for the implementation of this institute are extremely short.

ARTICLE 27

622. The Republic of Croatia shall ensure to all members of national minorities cultural autonomy and the right to identity, culture, religion, public and private use of language and script, education, access to media, protection of monuments and of entire cultural heritage, as well as free possession and use of signs and symbols of national minorities.

623. Certain provisions of the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Communities or Minorities are directly implemented in the accomplishment of cultural autonomy. In some cases, implementation regulations or bylaws of local self-government units are needed. Pursuant to a direct implementation of Article 7, Paragraph 1 of the Constitutional Law, the members of national minorities in the Republic of Croatia may freely use their language and script in private and public life.

624. According to Article 12 of the Constitution, the Croatian language and the Latin script shall be in official use in the Republic of Croatia. Pursuant to the same Article of the Constitution and according to Article 7 Paragraph 2 and Article 8 of the Constitutional Law, there is a possibility of an official use of two or more languages and scripts. A law shall be passed to determine the official use of particular languages and scripts of national minorities in the Republic of Croatia in the proceedings before the bodies of government administration, courts, public services and legal departments of legal authority.

625. **Members of national minorities realize their political rights, like all other citizens, through regular institutions of the system on the basis of the following legislation:** the Constitution, the Constitutional Law, the Law on Elections of Representatives to the Parliament of the Republic of Croatia, the Law on the Election of Representative Bodies of Local Self-Government and Administration Units, the Law on Political Parties. Members of national minorities represented in the House of Representatives with 8 representatives of which three representatives are elected from the Serbian (through several political parties) and one from each of the Italian, Hungarian, Czech and Slovak, Ruthenian and Ukrainian and German and Austrian national minority. The representation of members of national minorities in the bodies of local self-government is mainly in proportion to the share in the entire population of local self-government units. During 1997, the Croatian Parliament passed several laws which provide for the rights of national minorities: the Law on Associations and Accession to the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols No. 1, 4, 6, 7 and 11

with the Convention for the Protection of Human Rights and Fundamental Freedoms, the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages.

626. The Republic of Croatia has signed the following treaties: the Treaty on the Protection of Hungarian Minority in the Republic of Croatia and of Croatian Minority in the Republic of Hungary; the Treaty of the Cultural, Educational and Scientific Cooperation in the Republic of Croatia and the Republic of Hungary; the Treaty on the Normalization of Relations Between the Republic of Croatia and the Federal Republic of Yugoslavia; the Law on the Confirmation of the Agreement Between the Republic of Croatia and the Italian Republic on the Rights of Minorities and the Ordinance on the Confirmation of the Agreement on the Cultural, Educational, Scientific and Sports Cooperation Between the Republic of Croatia and the Government of the Slovak Republic.

627. The Republic of Croatia assists the relations among national minorities and their mother states with the purpose of advancing the national, cultural and linguistic development.

628. The Commission for the Relations with Religious Communities sees to the religious rights of all citizens, as well as members of national minorities.

629. Members of national minorities are guaranteed the maintenance and development of their identity (ethnic, national, cultural, linguistic, religious and other) either individually or together with other citizens.

630. Members of national minorities elected their representatives to the Council of National Minorities, reconciled the Decision on the establishment of the Council of Europe and began their work. The Council of Minorities has 14 members, one representative from each national minority. In such a way, the conditions were created for a constant dialogue between the national minorities and the Government and bodies of the state authority.

631. As a nongovernmental organization, the Council of Minorities cooperates with the representatives of national minorities in the Croatian Parliament. It is not an alternative institution of the representatives of minorities but a complementary one. The Council monitors the implementation of the policy of keeping and promoting the protection of national minorities, analyzes problems and takes stands on all draft laws and regulations that provide for the protection of national minorities. It submits the opinions and requests to the Parliament and the Government, as well as their bodies for their consideration and solutions, and cooperates with all government bodies and the bodies of the international community.

632. The Government of the Republic of Croatia gradually maintains the model of the realization of ethnic rights through its authorized, regular institutions of the Republic of Croatia, professionally and administratively responsible for individual areas of the social life for all citizens, both for the majority people and the members of national minorities. In such a way, the principle of integration in the accomplishment of cultural and national identity is realized. Those

ethnic rights that cannot be ensured by the operation of regular institutions are ensured through various nongovernmental organizations and institutions of national minorities, financing cultural programs and thus additionally protecting the minorities from assimilation.

633. The realization of ethnic rights of national minorities is ensured by organizing and coordinating the professional supervision in the following fields:

- the field of education through the Ministry of Education and Sports,
- the field of literature through the National and University Library,
- the field of social research through the Ministry of Science and Technology,
- the field of museum and archival activities and preservation of cultural heritage through the Ministry of Culture,
- the access to electronic media through Croatian Radio and Television.

634. Ethnic rights that cannot be realized through the operation of regular institutions, are ensured through financing cultural programs of nongovernmental organizations and institutions. These are the programs from the following fields: information (various newspapers), the publishing of cultural amateurism, cultural manifestations financially supported by the Government of the Republic of Croatia, on the proposal of the Office for Ethnic and National Communities and Minorities.

635. Government of the Republic of Croatia passed a Decision on the Criteria for the establishment of financial assistance for programs of nongovernmental organizations and institutions of national minorities and the methodology for monitoring the accomplishment of programs of nongovernmental organizations and institutions of national minorities which do not realize their ethnic rights though the operation of regular institutions.

636. According to the Decision of the Government of the Republic of Croatia, the realization of programs and the use of funds was assessed by the Expert Council of the Office for Ethnic and National Communities and Minorities.

Newspaper And Publishing Industry

637. For the members of the national minority of **Italians** in the Republic of Croatia, Slovenia and for the subscribers in Italy (on the basis of cooperation of the Italian Union from Rijeka and the People's University from Trieste), an independent newspaper and publishing company "Edit" is in operation, headquartered in Rijeka. They were published "La voce del popolo" - a daily newspaper, "L'arcobaleno" - children's magazine, "Panorama" - biweekly, and "La Battana" - a literary journal.

638. For the members of the national minority of **Czechs,** there is a newspaper-publishing company "Jednota" headquartered in Daruvar. Which was published a weekly "Jednota", a monthly for children "Naš koutek" and the yearbook "Prehled" and "Češki narodni kalendar".

639. For the members of the national minority of **Slovaks,** the Slovak Cultural Society publishes a monthly called "Pramen".

640. For the members of the national minority of **Hungarians,** the editorial board "HunCro" published a weekly called "Uj Magyar Kepes Uysag", a monthly "Horvatoszagi Magyarsag", a children's newspaper "Barkoca" and a yearbook "Rovatkak" and the books "Szentkaszlo - Laslovo".

641. The Society of Hungarian Scientists and Artists realized a program of electronic information called MAHO for four nongovernmental organizations and cultural societies of Hungarians in electronic form and on Internet.

642. For the members of the national minority of **Ruthenians - Ukrainians,** the editorial board "Nova dumka" publishes a biweekly "Nova Dumka", a magazine for children and youth "Vjenčić" and the book "Cultural and Educational Society of Ruthenians and Ukrainians in Zagreb".

643. For the members of the national minority of **Serbs,** the "SDK Prosvjeta" published a quarterly "Prosvjeta" and a children's newspaper "Bijela pčela", "Narodni srpski kalendar", a chronicle "SDK Prosvjeta" and the books "Rasulo" by Nebojša Devetka, a collection of poems "Autoportret s dušom" (Autoportrait with Soul) by Divna Zečević, a novel "Američki sladoled" (American Ice Cream) by Drago Kokanović, "Kordunaški proces" (Kordun Process) by Čedomir Višnjić, "Etničko čišćenje" (Ethnic Cleansing) by Svetozar Livada, etc.

The community of Serbs in Croatia publishes a magazine called "Naš glas" (Our Voice), and the Serbian democratic Forum publishes a monthly called "Identitet".

The initiative for the Serbian National Congress publishes a monthly called "Alkion", and the association "Tolerancija", finished the preparations for the publication of the book "Participation of the Members of Serbian National Minority from the Freed Parts of Croatia in the Defense of Croatia Against the Aggression".

644. For the members of the national minority of **Germans and Austrians,** there is an editorial board called "Deutsches Wort", publishing a quarterly with the same name, as well as a yearly called "VDG Jahrbuch 97", with the papers from the conference "Germans and Austrians in the Croatian Cultural Circle".

645. For the members of the national minority of **Jews,** the Jewish Community of Zagreb publishes a bimonthly called "Ha-kol", as well as a yearbook "Voice" in the English language and the Jewish Calendar.

646. The **Slovenians** in the Republic of Croatia are organized in the Alliance of Slovenian Societies, which publishes a monthly "Bilten" and a quarterly "Novi odmev".

647. The community of **Albanians** in the Republic of Croatia publishes a journal "Informatori". A book called "Albanians and Clementinians in Hrtkovci and Nikovci (1737-1997) by Don Frok Zefig was published, "Povijest Arbanasa" by Tullio Erbera and "Konstantin Balšić" by Professor dr. Milan Šuflay.

648. The cultural society of **Bosniacs** of Croatia called "Preporod" publishes two journals, a bimonthly called "Behar", a journal for cultural and social issues and an informative newspaper

called "Behar Journal", a yearbook for children "Jasmin", and a book called "Običaji Bošnjaka" (Bosniak Customs) by Edib Muftić.

649. The Alliance of Societies of the **Roma** population of Croatia publishes a bimonthly "Romano Akharipe" and a quarterly called "Romengo Čaćipi".

650. The national community of **Montenegrins** of Croatia publishes the newspaper "Facta Montenegrina".

651. The community of **Macedonians** in the Republic of Croatia publishes the newspaper "Makedonski glas". In their publishing department, they published the books "Prometej Makedonski" by Ognen Bojadžiski and a collection of poems called "Moj put" (My Way).

Cultural Activities

652. The national minorities organize various cultural activities. Most cultural activities are organized by cultural societies. If a minority does not have such societies, the activities are carried out by nongovernmental organizations at the national level. Their work is subsidized through the state budget.

653. The members of the national minority of **Italians** have three cultural societies: Cultural Artistic Society "Fratellanza" from Rijeka, Cultural and Artistic Society "Marko Garbin" from Rovinj and Cultural Society "Lino Marijanni" from Pula.

654. The members of the national minority of **Czechs** have 22 cultural societies - so-called "Češke besede", whereas the members of the national minority of **Slovaks** have 4 cultural and artistic societies.

655. The members of the national minority of **Hungarians** are organized in the Democratic Union of Hungarians of Croatia, The Alliance of Hungarians in the Republic of Croatia and the Society of Hungarian Scientists and Artists in the Republic of Croatia.

656. The members of the national minority of **Ruthenians and Ukranians** have 8 cultural and artistic societies which all participated in the central celebration in Slavonski Brod called "Manifestations of Culture of Ruthenians and Ukranians of the Republic of Croatia".

657. The members of the national minority of **Serbs** realized their program of cultural amateurism through a sub-committee of the Serbian Cultural Society "Prosvjeta".

658. The subcommittee Zagreb organized forums in the field of history, art, languages, literature, education, religion, psychology and science; dancing evenings and celebrations of Serbian holidays, two book presentations; film evenings; musical evenings; the activities of the Theatre Workshop "Miletić" and of the Club "Jefimija", as well as exhibitions.

659. The subcommittees of Rijeka, Gomirje, Drežnice, Vrbosko, Jasenka, Sisak etc. also organized a number of forums, lectures and other cultural and artistic activities.

660. The members of the national minority of **Germans and Austrians** have 5 associations: Alliance of Germans and Austrians - headquartered in Osijek, Community of Germans in Croatia, German National Community, Association of Austrians in Germany, and the National Federation of Germans of Croatia.

661. These associations organized a number of lectures in history, culture, history, promotion of cultural heritage of Germans in Croatia, courses of German, singing choirs and a series of forums, exhibitions and lectures.

662. The members of the national minority of **Jews** have their cultural society called "Miroslav Šalom Freiberger", a singing society called "Lira" and a gallery "Milan and Ivo Steiner". There is an artistic-folk group "Or šemeš" and a vocal- instrumental group "Žozer" which are all active within the Jewish community. They took part in the manifestation called "Cultural Creation of the National Minorities in the Republic of Croatia". The Jewish community in Zagreb celebrated the Day of Independence of Israel and holidays: Yom Kippur, Rosh Hashanah, Purim. They organized an exhibition of photographs "Vrijeme stvara slike" (Time Creates Pictures) by Alise Douer and Ursula Seeber.

663. **Slovenians** are organized in the Alliance of Slovene Society which encompasses the work of three cultural societies: "Bazovica" from Rijeka, "Slovenski dom" from Zagreb and "Triglav" from Split.

664. These cultural-educational societies organized several performances of mixed singing choirs, a number of lectures, exhibitions, concerts and the celebration of the cultural holiday "Prešern's Day".

665. The community of **Albanians** has its cultural society called "Skhendija". The community organized a book presentation and the Day of the Albanian Flag" in Rovinj and Rijeka.

666. The cultural society of **Bosniacs** living in Croatia called "Preporod" (Revival) has its branch offices in Rijeka and Split. They organized several cultural evenings, traditional holiday gatherings, the anniversary of the Society, fine art exhibitions and the presentation of the book.

667. Two associations of **Roma** people were financed: The Alliance of Roma of Croatia and the Community of Roma of Croatia. Both associations celebrated on 8 of April - The Global Day of Roma.

668. The National Community of **Montenegrins** of Croatia and the Cultural Society called "Montenegro- Montenegrina". They organized a celebration of the traditional holiday "Petrovdan" (St. Peter's Day), an exhibition of pictures by different authors and several lectures.

669. The community of **Macedonians** has five cultural societies: "Kočo Racin" from Pula, "Ilinden" from Rijeka, "Braća Miladinovci" from Osijek, "Makedonija" from Split and "Krste Misirikov" from Zagreb. The Macedonian Community organized celebrations of Macedonian Evenings and Racin's Day, Ilinden, the week of Contemporary Macedonian Film, "Struške večeri" (Struga Evenings) of poetry, and exhibitions of paintings of Macedonian authors.

670. Apart from these types of cultural activities, the minorities have well organized libraries and in cooperation with the Ministry of Culture, they care for their cultural heritage, propose projects of social research activities evaluated by the reviewers of the Ministry of Science and Technology according to the rules applying to all projects within the National Scientific and Research Project. The construction of schools are co-financed with mother-countries from the State Budget. Education in the languages of national minorities is part of the unified educational program in the Republic of Croatia and the schools have books in the languages of national minorities.

671. We have already reported about Croatian Radio and Television and the production of programs for national minorities in connection with Article 19 of the Covenant.

672. On the occasion of the 50th Anniversary of the Adoption of the General Declaration on Human Rights and 7th Anniversary of the International Recognition of the Republic of Croatia, in the organization of the Office for Ethnic and National Communities or Minorities, a musical program called "Cultural Creation of National Minorities in the Republic of Croatia" took place on January 24, 1998 at the concert hall "Vatroslav Lisinski". The program was designed by a special Committee whose members were proposed by national minorities. In the program, folk-dances and music of national minorities were performed. An exhibition of books and a promotion of a catalogue about the publishing activities of national minorities from 1991 to 1998 was also organized.

673. **Upon the recommendation of the Venice Commission of the Council** of Europe, an independent advisory body, the **Council of Minorities was established.** It articulates the interests of national minorities both of individual minorities and of minorities as a whole. It also proposes to the Croatian National Parliament and to the Government of the Republic of Croatia the resolution of certain problems that might emerge in this field. The Council was constituted on January 23, 1998. A representative of the Jewish Community Zagreb was elected President of the Council, and a representative of the Alliance of Czechs was elected Vice President. They were both elected for the term of one year.